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THE BODY OF THE *COMMON LAW* OF ENGLAND:

As it ſtood in force before it was altered by Statute, or Acts of *PARLIAMENT* or *STATE*.

Together with an exact Collection of ſuch Statutes, as have altered, or do otherwiſe concern the ſaid Law.

By *E. W.*

Eraſm. *in Coll. Rel.*

Præſtat pauca avidè diſcere, quam multa cum tædio devorare.

London, Printed by *R.* & *W. Leybourn* for *Henry Twyford* in Vine Court, Middle Temple, and *Roger Wingate*, at the Golden Hinde neer *Lincolns*-Inne in *Chancery*-lane, 1655.

IX
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Rec. Dec. 29, 1849.

The Præface.

THe Summary *of the Common Law (extracted, for the moſt part, out of Sr* Henry Finch *Knight, his Learned Treatiſe of the Law) being intended only to repreſent the Original frame of that Law, and not capable of comprehending the* Rules *or* Maxims *of the ſeveral titles of Law therein conteined: It is conceived expedient here farther to preſent the ſame Authours continued method of the ſame Law (conformable to that Table) which conteins the* Rules *of Law inſerted under their proper titles reſpectively; ſo as the Student by often reading over, and fixing in his memory the order and matter of this Treatiſe, may thereby attain ſuch a certain notion of the Common Law, as may make him apt and ready to apprehend any caſe may be put him, or any Law-book he ſhall read: Howbeit, although the* Rules *here propounded are regularly true, and conformable to the ancient Common Law, yet they have been, and ſtill are ſubject to be altered by two other Laws,* viz. *The* Statute-law, *and the* Law *of* Reaſon: *As for the firſt, it hath been a Law framed in all Ages by the Prudence of* Parliaments *for prevention of Inconveniencies*

encies found in the Common Law, according to the condition of the people, and ſtate of affairs in the ſeveral times, when it was made, a brief Collection whereof (viz. *of ſo much as alters, or otherwiſe concerns the Common Law*) *is hereunto annexed. The other is as ancient as the Creation, and comming into the World with man cannot be abrogated; this laſt many times controles the Common Law, when in reſpect of ſome accidents or circumſtances, the Judges are conſtrained to make a conſtruction, according to one or more Rules of Reaſon* (*if not*) *againſt* (*at leaſt varying from*) *a poſitive* Rule *of Law, as might be exemplified by many Inſtances, if it were now convenient to inſiſt thereupon: but that being deferred to a fitter opportunity, the* Abſtract *following invites your ſerious and indulgent peruſal.*

Errata, *in the firſt Treatiſe.*

Page 35. *line* 31 *for* units *read* writs. *pag.* 37. *line* 2. *for* execution *read* exception. *p.* 45. *l.* 3. *f.* beholden *r.* holden *p.* 48. *l.* 21. *r.* which lie. *p.* 65. *l.* 8. *r.* this is. *p.* 67. *l.* 35. *f.* within *r.* which in. *p.* 87. *l.* 16. *f.* to *r.* the.

Errata, *in the laſt.*

Page 9. *line* 18. for which *read* with. *p.* 11. *line* 25. *f.* and *r.* of. *p.* 15. *l. ult. f.* away *r.* award. *p.* 19. *l.* 17. inſert them, *p.* 27. *l.* 27. *dele* hand. *p.* 28. *l.* 27. Inſert *Stat.* 32. *H.* 8. 21. *p.* 44. *l.* 26. *f.* pray *r.* pay.

THE BODY OF THE *COMMON LAW* OF ENGLAND.

CHAP. 1.

I. THe Common Law of *England* is a Law uſed time out of minde throughout the Realm.

II. The Realm of *England* is divided into *Counties*, (in all 39) and each County into ſeverall *Towns*, a Precinct which anciently contained ten Families, called *Tithings*, and ten of thoſe Tithings made a Precinct called an *Hundred*.

III. In ſome Counties, Towns, and other places of the Realm, there be ſpecial Uſages time out of minde, differing from the Common Law, which are called *Cuſtoms*.

IV. A County is a part of the Realm, entirely governed by one Sheriffe.

V. Every one ought to be Inhabitant within ſome

Tithing, and there finde ſureties for his good behaviour.

VI. Diverſe Towns have *Hamlets* in them, and ſome ſpeciall places there be, out of any Town or Hamlet.

VII. The perſons within the Realm are to be conſidered, either as one entire body, or as particular perſons.

VIII. As one entire body it conſiſteth of the King, and his ſubjects.

IX. The King is the Head of the Commonwealth, immediately under God.

X. And therefore the King hath a ſhadow of the excellencies that are in God, in a ſimilitudinarie manner given him, as

XI. Infiniteneſs.
XII. Perfection.
XIII. Majeſty.
XIV. Soveraignty.
XV. Power
XVI. Perpetuity.
XVII. Juſtice.
XVIII. Truth.

XIX. He hath alſo a prerogative in all things, that are not injurious to the ſubject.

XX. In regard of the King, the Queen his wife is participant of diverſe prerogatives above other women.

XXI. His ſubjects are the members of the Commonwealth, and are Barons and Commons.

XXII. The Barons are called the Peeres of the Realm.

XXIII. All the reſt are Commons.

XXIV. The particular perſons, are naturall perſons, or Bodies Politique.

XXV. The naturall perſons are every man.

XXVI. A body Politique is a body in fiction of Law, that indureth in perpetuall ſucceſſion; ſuch is the King

King alone, and by himſelfe conſidered, and a Parſon (called) the *Rector* of a Church.

XXVII. The Parſon in regard of his continuall attendance upon that ſacred function, is freed from all perſonall charges, that may hinder him in his calling.

XXVIII. So is every other Clerke within Orders.

XXIX. To the Parſon belongeth the Tenth of all manner of yearly increaſe.

XXX. Every Parſon muſt be preſented to the Ordinarie, who is to admit him.

XXXI. And then the Arch Deacon is to put him in poſſeſſion, by delivering the Ring of the Church doore, and ringing the Bels.

XXXII. The incumbent hath not the meere right in him of land in the right of his Church.

XXXIII. Therefore every act, which he doth with ſuch land, may be avoided, when he ceaſeth to be Incumbent, except ſuch as are done by conſent of Patron and Ordinarie, which binde for ever.

XXXIV. If the Church be void ſix moneths, the Ordinarie may *Collate*, or appoint a Clerk of his own; and if it be void ſix moneths after his time, then the Metropolitane, and ſix moneths after his time, the King may preſent, if the Patron preſent not before them.

XXXV. When one Church is not able to finde the Cure, the Ordinarie by conſent of the Patrons may unite it to ſome other.

XXXVI. Beſides thoſe Corporations, that were at the Common Law, there be diverſe other, which have grown of later time, by ſpeciall foundation and election, whereof ſome are aggregate of many perſons, *viz.* of an Head and body: Others conſiſt in one ſingle perſon.

XXXVII. Theſe Corporations are Temporall or Spirituall.

XXXVIII. The Temporall are made by the King, as Major and Cominalty; alſo Colledges, as Maiſter and Fellows, &c.

XXXIX. Diverſe Towns are ſo incorporate before time of memory, and are called *Boroughs*.

XL. The Spirituall ones were for the moſt part made by the Pope, but had their power to purchaſe from the King.

XLI. Theſe are alſo of two ſorts, *viz.* Regular, or Secular.

XLII. Regular, which have entered into Religion, profeſſing to vow three things, *viz.* *Obedience*, voluntary *Poverty*, and perpetuall *Chaſtity*.

XLIII. And therefore theſe are dead perſons in Law, only their Head hath power to purchaſe or do ſuch other things to the uſe of the houſe: And of this ſort are Abbot and Covent, Prior and Covent, &c.

XLIV. Secular, are ſuch as have not entered into Religion, as Biſhop and his Chapter, Maiſter of an Hoſpitall and his Brethren, Guardian of a Chappel and his Chaplains, &c. Alſo Arch-Deacons, and the like.

XLV. Touching the Biſhop and his Chapter (which make but one body) their poſſeſſions are divided, ſo as the Biſhop hath part by himſelf, and the Chapter the reſidue, which Chapter conſiſteth of a Dean as the chief, and Prebendaries, or ſuch like, who are moſt properly termed the Chapter; And of theſe alſo the poſſeſſions are for the moſt part divided, the Dean having ſome part ſolely in the right of his Deanry, and the particular Prebendaries ſome other part in the right of their reſpective Prebends: the reſidue the Dean and Chapter have together; and every of them is to ſuch purpoſe incorporate by himſelf.

XLVI. Theſe ſpirituall Corporations are ſometimes pre-

preſentative, ſometimes dative, perpetual or removeable ſometimes Elective, and have a common Seal.

XLVII. To them alſo Parſonages may be appropriate by the Patron, Ordinary, and King, and Vicars endowed to ſerve the Cure.

CHAP. 2.

I. OF the Common Law there be two parts, the one concerneth Poſſeſſions, the other puniſhment of offences.

II. A Poſſeſſion is whatſoever may be enjoyed.

III. *The King ſhall have to his own uſe all the poſſeſſions of a Fool natural, during his Ideocie.*

IV. When one hath the poſſeſſion of any thing to anothers uſe, this was accounted nothing, but as a matter in Conſcience and Chancery.

V. Sundry men poſſeſſing the ſame thing by purchaſe, are Joynt-tenants, or Tenants in common.

VI. Joynt-tenants, which poſſeſſe by the ſame Title.

VII. And here, the ſurvivor ſhall have the whole in the ſame ſort as he had his part, excepting only preſent intereſts of the thing it ſelfe granted by him that dieth.

VIII. Tenants in Common are they, which poſſeſſe by ſeverall titles.

IX. To poſſeſſions this is generall, that they may be granted.

X. *Every grant, made by the King upon ſurmiſe or ſuit of the party, ſhall be taken moſt beneficially for the King, and againſt the party.*

XI. *No grant of his is good, when it appeareth within the body of the grant, that the King is deceived.*

XII. *His grant ſhall not enure to any other intent then that, which is preciſely expreſſed within the grant.*

XIII. A grant by an Infant under the age of 21 years, one out of his right minde, or compelled thereunto, either by *dures* of Imprisonment, or fear of some bodily hurt threatned, as losse of life and member, or though it be but of Imprisonment, may be avoided at any time, if they deliver it with their hand.

XIV. But if they deliver it not with their hand, nothing at all passeth.

XV. So it is also of a grant made by one, that hath no understanding.

XVI. Yet grants of an Infant, in respect of having necessary things, cannot be avoided.

XVII. Other grants of his, where himselfe hath likewise benefit, are only voidable.

XVIII. To this place belongeth *Exchange*, which is a mutuall grant of equal Interests, each in exchange of other.

XIX. Prescription is as available, as any grant.

XX. A Possession is restrictive or absolute.

XXI. A restrictive possession is upon a limitation, or condition.

XXII. Upon a limitation, which ceaseth upon the doing, or not doing of something.

XXIII. Upon condition, which is only defeasible upon the doing or not doing of something.

XXIV. Absolute which is neither upon limitation or condition.

CHAP. III.

I. POssessions are in possession, or in action.

II. In Possession, which one doth enjoy.

III. In Action, which one ought to enjoy, either in respect of a right or a title.

IV. Right, when a wrong was done before.

V. Title

V. Title, when no wrong was done.

VI. Of things in action no ſtranger ſhall take advantage.

VII. Therefore things in action cannot be granted, but to him that hath poſſeſſion, and that by Releas or Confirmation.

VIII. Releas is a paſſing of the Grantors intereſt.

IX. Confirmation is a ratifying of the Grantees poſſeſſion.

X. The grant of every thing in action, and of ſuch things in poſſeſſion, as cannot paſſe by the liverie of the hand, muſt of neceſſity be by Deed.

XI. A Deed is a Writing ſealed and delivered, and belongeth alwayes to him, whoſe poſſeſſion is made by it.

XII. But a Writing read in another form to one, that cannot read, is not his deed at all, though he ſeal and deliver it.

XIII. A Deed, is a Deed Poll, or Indenture.

XIV. Poll, which is the onely deed of the Grantor.

XV. Indenture, which is the mutuall deed of both.

XVI. An Indenture barreth every of the parties from ſaying contrray to any thing therein contained.

XVII. Sometimes alſo bare acts worke an eſtopple in like ſort.

CHAP. IV.

I. A Poſſeſſion is an Hereditament or Chattel.

II. Hereditament is a Poſſeſsion, which one may have an Eſtate in.

III. One born of parents out of the Kings allegiance is diſabled to enjoy any Hereditaments.

IV. *Therefore ſuch a one purchaſing any it is the Kings.*

V. An Eſtate is Particular, or an Inheritance.

VI. A Particular eſtate is uncertain or certain.

VII. Uncertain, which is determinable at anothers pleaſure, as an eſtate at ſufferance and at will.

VIII. At ſufferance, when after lawful occupation, he continueth poſſeſſion without authority.

IX. At Will, when an eſtate is made during pleaſure.

X. And this is according to the cuſtome, as a Copie-holder; or at pleaſure otherwiſe, as a bare Tenant at will.

XI. Certain, which is not ſo determinable, and it is called a *Term*, whereupon may depend a remainder or reverſion.

XII. Remainder, is the reſidue of an eſtate, at the ſame time appointed over.

XIII. Reverſion, is the reſidue of an eſtate, not at the ſame time appointed over.

XIV. Terms are forfeited, by plucking the Inheritance out of him that hath it.

XV. Terms may be ſurrendred, that is, to him that hath the next and higher eſtate.

XVI. A Term is for years, or for life.

XVII. A Term for life is for his own life, or for anothers life.

XVIII. Where the Tenant for anothers life dies before *Ceſty que vie*, he that can firſt hap it, ſhall enjoy out the Term, and is called an *Occupant*.

XIX. The preſent eſtate for life is termed a *Freehold*, and may be ſo in deed, or in Law.

XX. Indeed, when he is actually ſeiſed of it.

XXI. In Law, before his entry, when it is caſt upon him by courſe of Law.

XXII. The releaſe of an Inheritance or of an eſtate for life, is not good to one that is but Tenant for years, without privity.

XXIII. To theſe two eſtates a Warrantie doth be-

long,

long, which is an aſſurance warranting ſuch an eſtate.

XXIV. Every Exchange hath a Warrantie knit by Law.

CHAP. 5.

I. INheritance is an eſtate deſcendable to his heires, that hath actuall poſſeſſion.

II. An heir is the next or worthieſt of whole blood, being alſo of blood to the firſt purchaſer.

III. He that is begotten out of Marriage is called a Baſtard, and is of blood to none, but in Law accounted *Nullius Filius*.

IV. A Baſtard therefore cannot inherit.

V. But Marriage following after, giveth him the right of Inheritance, if after the fathers death he enter before his younger brother, born of the ſame father and mother within eſpouſals and continue the poſſeſſion all his life without interruption.

VI. If the next be women in equal diſtance, as daughters, Siſters, Aunts, &c. they ſhall inherit alike, and are but as one heir.

VII. Where the general entry of one is of the reſt, if they liſt.

VIII. The Inheritance that deſcendeth ſhall be charged with the deed of the Anceſtor, binding himſelf and his heirs.

IX. The Dying ſeized of the Inheritance and Freehold together, whereby the Land deſcends unto his heir, taketh away the entry of every one, that may have an Action.

X. But claim upon the land within a year before the death, or if they dare not upon the land for fear of ſome bodily hurt, then as neer the land as they dare, ſaveth their entry.

XI. A Fee-ſimple is a Fee-ſimple conditional or abſolute.

XII. Con-

XII. Conditionall is a fee ſimple to one and the heirs of his body.

XIII. This eſtate before iſſue cannot be alienated, after iſſue had, becommeth an abſolute fee ſimple.

XIV. But ſo, as if the Iſſue fail before the alienation, the donor ſhall have it.

XV. Hither belong hereditaments given in Frank-marriage with ones Kinſwoman.

XVI. Abſolute, is a feeſimple to one and his heirs whatſoever.

XVII. This eſtate deſcending to Females, if one of them have lands of the ſame Anceſtor by Frank-marriage, ſhe ſhall have no more, unleſſe ſhe be content, that the value thereof be allowed to the other.

XVIII. To this place are to be referred Lands given to a Corporation, which go in perpetuall ſucceſsion.

XIX. Here, two ſpeciall eſtates for life, *Dower* and *Tenancie* by the courteſie of *England*, do ariſe after ones death, that hath an Inheritãce joyned with the Freehold.

XX. Howbeit, theſe eſtates muſt be of a feeſimple, or ſuch an eſtate taile, as may go to the iſſue had between the Dõnees.

XXI. Dower is an eſtate, whereby the woman hath the thirds in ſeveralty.

XXII. She muſt be nine years of age at the time of her husbands death, otherwiſe ſhe ſhall not be endowed.

XXIII. Detaining of deeds concerning Inheritance deſcended to the heire, is a bar of her Dower.

XXIV. If the husband at the Church door (*ad oſtium eccleſiæ*) or being heire apparent by his fathers or mothers conſent (*ex aſſenſu patris* or *matris*) preſently upon affiance endow her of any certainty, as of the whole, moity, or leſſe part, &c. this will bar her of her thirds, if ſhe agree to it.

XXV. Tenancie by the courteſie of *England* is an eſtate, whereby of an actuall poſſeſsion the husband

that

that hath iſſue by her born alive, ſhall have the whole.

CHAP. 6.

I. HEreditaments are tenements or bare hereditaments.

II. A Tenement is a poſſeſſion holden, the Feeſimple whereof, when he that hath it dieth without heir, commeth to the Lord.

III. Of this ſort are Lands and Advowſons.

IV. Land is a Tenement in Mannuall occupation.

V. Under the name of Land are comprehended, not only Gardens; Meadows, Paſtures, Woods, Rivers, &c. but alſo Meſſuages, Mils, Yards, Toſts, Caſtles & the like.

VI. Churches and Church-yards belong to the incumbent.

VII. Preſcription here hath no force.

VIII. *All Land is holden of the King immediately, or by means, himſelfe not having any higher upon earth, of whom to hold.*

IX. *Eſcheates of all Cities appertain to the King.*

X. *All Mines of gold and ſilver, or wherein the gold or ſilver is of the greater value, are the Kings.*

XI. Amongſt Coparceners, the eldeſt upon partition ſhall have the chiefe houſe.

XII. Seiſin delivered of land alwayes paſſeth a Freehold.

XIII. Otherwiſe a Freehold of Land cannot paſſe ſave by releaſe and confirmation, where they are by way of enlarging an eſtate.

XIV. They may alſo ſomtimes paſſe by Exchanges, Endowments, or Surrenders.

XV. An eſtate made within view of the land is a good Liverie of ſeiſin, if the other enter in the Feoffors life time.

XVI. An Advowſon is an intereſt of preſenting to a Church.

CHAP.

CHAP. 7.

I. BAre Hereditaments are thoſe, which are not holden, and concern the Land or the perſon.

II. Thoſe that concern the Land are extinguiſhed, or gone for ever, when he that hath them, hath alſo the poſſeſſion of the Land, that they concern, in as high and continuing an eſtate, as he hath the hereditaments.

III. Otherwiſe they are but ſuſpended or gone for a time.

IV. Theſe are leviable by diſtreſſe, or ſuch as cannot be diſtreined for.

V. Diſtreſs is a taking of Chattels, found upon the ſame Land, for ſatisfaction of arrerages.

VI. *The King may diſtrain in any other land of the ſame mans for his ſervice or rent charge.*

VII. The diſtreſſe being put in ſome place, where the owner may lawfully come by them, as, if they be things that have life, to give them meat, &c. he that diſtraineth ſhall not be charged, what hurt ſoever they receive.

VIII. Bare hereditaments, that may be diſtrained for, are a Seigniorie, or Rent charge.

IX. Seigniories are ſervices, whereby Lands are holden.

X. Services are common to all certain eſtates, or proper to inheritances.

XI. Common, as Fealty, and Rent ſervice, whereof Fealty is incident to every ſuch eſtate.

XII. And therefore the Seigniorie or Tenancie being altered, it muſt be done anew.

XIII. All other (both common ond proper) grow by reſervation.

XIV. Fealty is an Oath to be faithful to the Lord for the Teneme nts.

XV. Rent ſervice, is a Rent to be paid to the Lord at certain ſet time s.

XVI. And

XVI. And to this place we may refer all ſervices that lie in feſance.

XVII. Of which kinde two amongſt the reſt are ſpecially to be conſidered, *viz.* Frankalmoigne, and Divine ſervice.

XVIII. Frankalmoigne, is when a man of the Church holdeth freely in Almes, for which he is bound to ſay Prayers.

XIX. But becauſe the Prayers are not limited in certain, he neither ſhall do fealty, nor is ſubject to diſtreſs.

XX. The Lord muſt warrant ſuch a tenant againſt himſelfe and his heirs, and ſave him harmleſſe of all manner of ſervices againſt the Lords above.

XXI. Divine ſervice is a ſpirituall kinde of ſervice limitted in certain.

XXII. Theſe are the ſervices whereby every certain eſtate may be holden.

XXIII. There follow thoſe proper to Inheritances, the Grantee whereof ſhall hold of the Grantor by ſuch ſervices, as he holdeth over, if other ſervices be not reſerved.

XXIV. Or the Grantor may appoint him to hold of the next Lord.

XXV. A Meſne muſt acquit the Tenant of all manner of ſervices againſt the Lords Paramont.

XXVI. But Doners in Frankmarriage cannot hold but by Fealty, and that of the Donor, untill the fourth degree be paſt, who muſt alſo acquit them of all manner of ſervices.

XXVII. *One that holdeth of the King as of his perſon alienating the Free hold without licence forfeiteth the Land.*

XXVIII. Services proper to eſtates of Inheritance are Homage and ſuit or Court.

XXIX. Homage is an Oath of fidelity acknowledging himſelfe to be the Lords man, In the doing whereof the

the Tenant must be ungirt, uncovered, kneele upon both knees, and hold both his hands together between the Lords hands, sitting before him.

XXX. This is to be done to the Lord himselfe, and but once during the Tenants life.

XXXI. *The Kings Chamberlain shall take homage for him.*

XXXII. When an Inheritance descendeth to Coparceners, the eldest only shall do Homage.

XXXIII. *But if they hold of the King, all of them must do it.*

XXXIV. When one and his Ancestors, whose heire he is, have held by homage of a Lord and his Ancestors, whose heire the Lord is, time out of minde; and the Lord hath received homage, that bindeth him to warrant and acquit the Tenant.

XXXV. Suit of Court is a service by comming to the Lords Court: And here Land in the Lords hands (whereof severall men hold by suite of Court) is termed a *Mannor*, but the Land considered apart from the service is termed *Demesnes*.

XXXVI. The particular kindes of services (whereby Lands of inheritance are distinguished) are Soccage and Knight service.

XXXVII. Both draw unto them certain commodities to the Lord, partly in the Tenants life, and partly after his death.

XXXVIII. That in his life is reasonable *Aide*, or Portion towards the making of the Lords eldest sonne a Knight; And towards the marrying of his eldest daughter.

XXXIX. The other after his death, are wardship and reliefe.

XL. Wardship is the Custodie of the body and land of the heire within age, which shall be til fourteen of a woman.

XI. Re-

XLI. Relief is a Portion to be paid by the heire to the Lord.

XLII. Soccage is a tenure to be done out of War.

XLIII. Where the next of the kinne, to whom the Inheritance cannot deſcend, ſhall have the heirs Wardſhip till fourteen, to the heirs own uſe.

XLIV. Here, for relief the Lord ſhall have preſently ſo much as one years rent amounts unto.

XLV. *Tenure by Soccage in Chief giveth the King primer ſeiſin, or the value of that Land by a yeare, if the heir be of the age of fourteen years at his anceſtors death.*

XLVI. Knight ſervice is a ſervice touching Warre, to be done by the body of a man.

XLVII. To all Knight ſervice Homage is incident.

XLVIII. Here the Wardſhip is the Lords to his own uſe, and that till 21 of an heire male.

XLIX. The Wife ſhall be barred of her Dower, ſo long as ſhe detaineth the heire from him.

L. Wardſhip of the body giveth the Wards marriage to the Lord.

LI. If one hold ſundry Lands of diverſe Lords, the Wardſhip of body goeth to the Lord of that Land, which the Tenant held firſt; and this is termed, Tenure by priority.

LII. *The King ſhall have the wardſhip of the body, though the tenure of him be by Poſteriority.*

LIII. The eldeſt childe, being heire apparent to his father, ſhall not be in Ward for his body during his Fathers life.

LIV. *Tenure by Knight ſervice in chief, giveth to the King the Wardſhip of all other Lands alſo.*

LV. *It giveth him likewiſe Primer ſeiſin, or the value of them all by halfe a year, if the heir were in Ward; by a whole year, if he were not; which Primer ſeiſin muſt be paid, and relieſe alſo.*

LVI. Re-

LVI. Relief for Land holden by Knight ſervice, amounteth to an *C. s.* for a whole Knights fee, to a *C.* Marks for a Baronie, and to a *C.* Pounds for an Earldome.

LVII. If the heire be within age at the Tenants death, no relief ſhall be paid to the Lords that are to have the Wardſhip.

LVIII. *Grand Serjeancie, viz. tenure of the Kings perſon, to do to him a more ſpeciall ſervice whatſoever by the perſon of a man, is a ſpeciall Knight-ſervice in chief, where the King inſtead of relief ſhall have the value of the Land by a year.*

LIX. Rent charge is a Rent with liberty to diſtrain.

CHAP. 8.

I. BAre Hereditaments concerning Land (for which no diſtreſſe can be taken) are a Rent Seck, and Common.

II. A Rent Secke is a Rent without liberty to diſtrain.

III. When a rent is granted for equality of Partition, amongſt Coparceners, this rent may be diſtrained for though no ſuch liberty be granted.

IV. The grant of a Seigniorie, Rent charge, and Rent Secke, as alſo of a Remainder or Reverſion of any of theſe, or of the land it ſelfe, is nothing worth without Attornement, *viz.* the agreement of the tenant, that preſently muſt be charged.

V. In the grant of a Reverſion depending upon a free hold, the Attornement of the Freeholder is ſufficient, though he be not the Tenant, that preſently muſt be charged.

VI. Common is a profit to be taken in anothers Land

CHAP.

CHAP. 9.

I. BAre hereditaments that concern the perſon, are meerly of the perſon themſelves, or by reaſon of the perſon.

II. Of the firſt ſort are Villeins.

III. A Villein is ſuch a ſervant, as himſelf and whatſoever he poſſeſſeth is the Lords, if he claim it.

IV. *The Lord cannot ſeize his Villein in the Kings preſence.*

V. The children of a Villein are alſo Villeins.

VI. Villenage beginneth, by confeſſing a mans ſelf to be one in Court of Record.

VII. A Villein is manumitted or ſet free, when the Lord enableth him to poſſeſſe any thing againſt himſelf.

VIII. Thoſe by reaſon of the perſon are Annuities, and Corodies, or Offices.

IX. Annuitie is a yearly rent to be had of the perſon of the Grantor.

X. Corodie is a portion for ones ſuſtenance.

XI. Office is a duty of attendance upon a charge.

CHAP. 10.

I. BEſides the hereditaments already handled, there be certain other derived from the Kings Prerogative, which are termed Franchiſes.

II. A Franchiſe is a Royal priviledge in the hands of a ſubject.

III. It may be forfeited by miſuſing of it.

IV. The kindes of Franchiſes are divers, and almoſt infinite.

V. Of ſuch ſort are Warrens, Markets, Faires, Toll of every buyer for things he buyeth there, not being for

his own expences, and whatſoever liberties or commodities elſe, that (created at firſt by the Kings ſpeciall grant, or of their own nature belonging to him) are given to common perſons to have any manner of eſtate in.

CHAP. 11.

I. Such then is the nature of an hereditament in his ſundry ſorts and kindes.

II. Chattels are poſſeſſions, wherein there cannot be ſeveral eſtates.

III. All ones Chattels, whether in poſſeſſion, or that any is indebted to him in, may be given away or deviſed by his teſtament.

IV. Teſtament is the appointment of ſome perſon to adminiſter them for him after his death.

V. The Executors muſt prove the Will (to be a true one) in the ſpiritual Court, and be ſworn to ſee it performed.

VI. If many Executors be made, and one refuſe, yet he may adminiſter at his pleaſure.

VII. But an Executor once adminiſtring, can never refuſe after.

VIII. Executors muſt anſwer all certain duties of the teſtator.

IX. But ſo as duties, that grow by ſpecialties are to be anſwered before other duties, and legacies to be laſt of all delivered.

X. In theſe deviſes the Teſtators intent (ſtanding with the rules of Law) ſhall be taken.

XI. The Executor of an Executor is Executor to the firſt Teſtator.

XII. If no will be made, the Ordinary ſhall adminiſter all the Chattels that were in his poſſeſſion.

XIII. But whether any will be made or no, his wife and

and ſuch children as are not advanced by him in his life ſhall have a part to their own uſe, *viz.* one third of all (after the debts paid) to his wife; and another third part to his children: *This ſeems to be the ancient Common Law by Mag. Carta cap.* 18. *See F.N.Br.* 122. *l.*

XIV. Chattels are real or perſonal.

XV. Real, as terms for years, and Wardſhip.

XVI. Perſonal, as Plate, Jewels, Gold, Silver, Implements of Houſhould, Cattel, and all goods and moveables whatſoever, Corn ſowen upon the ground, &c.

XVII. The Owner-ſhip of a Chattel perſonal is termed a property, which of wilde beaſts cannot be in any, nor after they are made tame, longer then they remain in ones poſſeſſion.

XVIII. *Treaſure in the earth, and* Treaſure Trove, *or Coin being found is the Kings.*

XIX. *Cattel alſo, that ſtray into anothers land, are the Kings after a year and a day, if being proclaimed at the Market in two ſeveral Towns next adjoyning, the owner do not claim them.*

XX. *Goods wrecked are alſo his.*

XXI. *The King being Tenant in Common of an Intire Chattel perſonal, ſhal have the whole.*

XXII. Goods, that belong to an Alien enemy, any body may ſeize to his own uſe.

XXIII. The taking of Goods by an Alien enemy in Battail, deveſteth the property from the Owner, if he come not before Sun-ſet to claim them.

XXIV. Church-wardens are enabled to have goods to the behoof of the Pariſh.

XXV. To Chattels Perſonal, Bailment, and Contract do belong.

XXVI. Bailment is a delivery of goods in poſſeſſion, and is either to keep, or imploy.

XXVII. To keep, when onely the cuſtodie is committed

mitted to him, and is a ſimple Bailment or pledge.

XXVIII. A ſimple Bailment, when he receiveth them to keep for another; whether it be for the Bailer to re-deliver him again, or for a ſtranger to bail them over to him.

XXIX. A Pledge is when he receiveth them in aſſurance for another thing had of him at the time.

XXX. The Bailment of goods to imploy is, when the Bailee hath the things themſelves to uſe to anothers profit.

XXXI. Contract is a mutual agreement for the very property of perſonal things.

XXXII. Here, the duty growing upon it cannot be apportioned.

XXXIII. Of this kinde of Contracts are buying and ſelling, borrowing and lending, and ſuch like.

XXXIV. The ſale of another mans goods in Market overt altereth the propertie, if toll be paid for them.

XXXV. Hither belong certain (as it were) Contracts in law, though not ariſing from the ſpecial agreement of the parties: as Trover and converſion, &c.

XXXVI. Theſe are the things that belong to Chattels perſonal in general: for the intereſt of perſonal things uncertain, Accord and Arbitrement lie.

XXXVII. Accord is an agreement between the parties themſelves upon a ſatisfaction executed.

XXXVIII. Arbitrement is an award of ſatisfaction by others, whom they chuſe to judge between them.

XXXIX. The award of a perſonal Chattel altereth the property thereof.

CHAP. 12.

I. WE have hitherto ſpoken of poſſeſſions, (being the firſt and hardeſt part of the law;) The other

other remaineth, which miniſtreth juſtice in the puniſhment of offences.

II. An offence is the doing of any wrong, and it is a wrong without force, or to the which force is coupled.

III. In thoſe of the firſt kinde, the offender is to be amerced, *viz.* to pay a petty ſum of money to the King, and if he be a Peer of the Realm, then C. *s.*

IV. The Kings wife ſhall never be amerced.

V. Offences without force are Treſpaſſes upon the caſe, or Real wrongs.

VI. Treſpaſſe upon the caſe is ſuch an offence whereby any thing is endammaged, and it is a miſuſer, or deceit and conſpiracie.

VII. Miſuſer, when by meer wrong it is endammaged.

VIII. Of this kinde there be many, and thoſe of divers ſorts; as if a man maliciouſly utter any falſe ſlander to the endangering of one in law.

IX. The touching of him with ſome heinous crime.

X. The impairing his trade of life.

XI. If one having another mans goods, convert them to his own uſe.

XII. If a Sheriffe ſuffer one in execution for debt to go at large.

XIII. If a Smith prick my horſe, or kill him in cure.

XIV. If being committed to the Gaole, the Gaoler of malice puts upon me ſo many Irons, or otherwiſe uſeth me ſo hardly, that I become lame thereby, &c.

XV. But two above the reſt do here require more ſpecial conſideration, *viz.* Diſturbance and Nuſance.

XVI. Diſturbance is the hindering of that, which in right belongeth to one to do.

XVII. Nuſance is an annoyance done to ones hereditament.

XVIII. All manner of Nuſances are to be removed,

and common nuſances any man may pull down.

XIX. If in play one win anothers money by falſe dice, or if he that ſelleth any thing, do upon the ſale, warrant it to be thus and thus, whereby the other is deceived.

XX. Conſpiracie is, where two or more conſpire to do one wrong, or the the like.

XXI. There are certain other offences againſt the Law, which are in the nature of treſpaſſes upon the caſe, and by the Kings prerogative puniſhable like to them.

XXII. Of this ſort are Nonſuit in an action, fault in the original writ, or (by the Sheriffe) in the return of a writ, making default when he ſhould appear, and whatſoever other offences (not being with force and armes) which offer no direct injury to a common perſon.

CHAP. 13.

I. HItherto of Treſpaſſes upon the caſe: A reall wrong is that which medleth with the Free-hold otherwiſe then it ought.

II. A real wrong is a diſcontinuance or an Ouſter.

III. Diſcontinuance is, when he that hath an eſtate Tail, or a Fee-ſimple in anothers right, maketh a larger eſtate of the land then he may.

IV. Warrantie of an eſtate of Inheritance, or for life deſcending upon him, that ought to have ſuch eſtate, maketh a diſcontinuance.

V. Diſcontinuance taketh away the entry of thoſe that come to have title after the death of the diſcontinuer.

VI. If he (whoſe entry is barred by a deſcent or diſcontinuance) have the Free-hold caſt upon him by a new title, he ſhall be in of his ancient title, which is termed a *Remitter*.

VII. Ouſter is, when the Free-holder is put out.

VIII. The

VIII. This Ouſter is of a Free-hold in deed or in land.

IX. Of the firſt ſort are Diſſeiſin and uſurpation.

X. Diſſeiſin is the ouſting of him that hath free-hold in deed, by putting or holding him out of the land.

XI. This may be alſo of a rent or other profit out of land, by diſturbing him in the means of comming to it: as

XII. In every rent Encloſer and Foreſtaller.

XIII. Encloſer is, when the tenant incloſeth the land, ſo as he cannot come to diſtrain or demand it.

XIV. Foreſtaller is, when the tenant beſetteth the way with force and armes upon his coming.

XV. Of this nature is the menacing of him, when for doubt of ſome bodily hurt he dare not come.

XVI. In a rent ſervice, and rent charge, Reſcous and Replevin.

XVII. Reſcous, when either the party having diſtrained, the diſtreſſe is reſcued, or being upon the land to diſtrain, cannot be ſuffered to do it.

Replevin is, when an Action of Replevin is brought upon a diſtreſſe taken.

XIX. In a rent charge, and rent ſeck, Denier.

XX. Denier is, when the rent (being demanded upon the land) is not paid.

XXI. Uſurpation is, when the Church becommeth full by the preſentment of a wrong Patron, and the Inſtitution of the parttie preſented by the Ordinary.

XXII. *But againſt the King Induction onely doth it.*

XXIII. Of the ſecond ſort are Intruſion and Abatement, being of a free-hold in law.

XXIV. Intruſion which is after the death of the tenant for life.

XXV. Abatement, which is after the death of one that hath the inheritance.

CHAP. 14.

I. Such is the nature of an offence without force.

II. An offence with force is a treſpaſſe or an offence againſt the Crown.

III. Treſpaſſe is a criminal offence puniſhable by a fine to the King.

IV. For this the partie muſt be impriſoned, untill he do compound.

V. Treſpaſſes touch poſſeſſions, or the perſon.

VI. Poſſeſſions, when the wrong is done in them; namely, in goods or land.

VII. Treſpaſſe in goods is the wrongful taking of them with pretence of title.

VIII. And therefore ſuch a treſpaſſe altereth the propertie of the goods.

IX. Treſpaſſe in land is, when the treſpaſſe is done upon the actual poſſeſſion thereof.

X. Beaſts and other Chattels may be diſtrained by him that hath dammage by them.

XI. Hither belongeth Ejectment, when a termer for years of land is ouſted.

XII. *Here the King having poſſeſſion none can put him out.*

XIII. Treſpaſſes to the perſon are with pretence of violence, or violence indeed.

XIV. Pretence of violence, as Menaces and Aſſaults.

XV. Menaces are threatning words of beating one or ſuch like; through fear whereof ones buſineſſe is foreſtowed.

XVI. Aſſault is an unlawful ſetting upon ones perſon.

XVII. Hither belong, lying in wait, beſetting his Manſion-houſe, and not ſuffering his ſervants to go in and out, &c.

XVIII. Vi-

XVIII. Violence indeed is falſe impriſonment, or bodily hurt.

XIX. Falſe Impriſonment is an unlawful reſtraint of libertie.

XX. Bodily hurts are either outward violences onely, or Rape.

XXI. Outward violences onely are Batterie and Mayhem.

XXII. Batterie is the wrongful beating of one.

XXIII. Mayhem is the wrongful ſpoiling of a member defenſive in fight.

XXIV. Rape is the carnal abuſing of a woman againſt her will.

CHAP. 15.

I. BEſides theſe offences, being (for the moſt part) betwixt partie and party, there are other offences to the damage of the publique in the nature of Treſpaſſes, and are termed *Contempts*.

II. Theſe offences are puniſhed not onely by fine, but ſometimes by corporal pain, and ſometimes by loſſe of member.

III. As the Common-wealth is a body politique, which conſiſts of the King, as the Head, and of his ſubjects as the members thereof; ſo are theſe offences to be diſtributed.

IV. Publique offences againſt the King are, to diſobey the Kings Command by his Writ or Proclamation, to diſobey any thing ordained by Statute, &c.

V. And therefore the Sheriff that ſerves not the third Writ, makes a contempt.

VI. Publique offences to the body of the Common wealth are firſt thoſe which trench againſt the domeſtical ſafety thereof, as againſt the *heart* of the Common-wealth.

VII. Which

VII. Which ſafety conſiſts in this, that there be *pax domi*; and therefore here, the offences are Rebellions, Inſurrections, Riots, Routs, unlawful aſſemblies, breach of the Peace, and good Behaviour, falſe newes, Barratrie, Eveſ-dropping, &c. Alſo all treſpaſſes with force, which may be proſecuted by Indictment as well as by the ſuit of the party grieved.

VIII. An unlawful aſſembly is, when above the number of two aſſemble together with purpoſe to do ſome unlawful act.

IX. Rout, when they ſet forward to do it.

X. Riot, when they do it indeed.

XI. In the ſecond place come the offences, that are againſt the ſtrength of the Realme, and the defence thereof againſt forraign enemies, as againſt the hands and armes of the Common-wealth.

XII. Of this ſort are theſe; To ſend victual or armour beyond ſea, in comfort and aid of the Kings enemies; To go beyond ſea, without the Kings licenſe, whereby the King and the Realme may be enfeebled, &c.

CHAP. 16.

I. THe third ſort are offences againſt the juſtice of the Realm, as againſt the thighes and legs thereof; as

II. Judges which delay or pervert Juſtice.

III. Officers negligent or corrupt, who do not execute their offices as they ought to do.

IV. Gaolers, who by fear of puniſhment cauſe their priſoners to become provers to accuſe others, or teach the Lay-people in their cuſtodie to read for the ſalvation of their lives.

V. Enditors, who give warning to Enditees, whereby the Council of the King and the Juſtices is diſcovered.

VI. He

VI. He that by negligence or voluntarily ſuffers one under arreſt to go at large.

VII. And here if the arreſt be for felonie, ſuch voluntary eſcape is felonie.

VIII. Hither alſo all manner of extortion in Officers is to be referred.

IX. A Juror, that appears and is challenged, and afterwards, when he is found indifferent, and is called to be ſworn, makes default: He ſhall be fined to the value of his land by the year.

X. All force againſt the Juſtice of the Realm.

XI. The breaking of priſon: and here, if it be by the party himſelf, it is felonie.

XII. Reſcous, when a ſtranger, or the party himſelf diſturbs the arreſting of a felon or other.

XIII. Affrayes in diſturbance of Juſtice, as

XIV. Such as come forcibly into the Kings Court in affray of the peace, ſo as the Jurors dare not give their Verdict.

XV. Such as hire evil people to beat the people of the Court, Jurors of Enqueſt, or any other.

XVI. To go armed in the Kings palace.

XVII. He that ſtrikes a man in Weſtminſter-hall ſhall loſe his right hand.

XVIII. He that ſtrikes a Juror in the preſence of the Juſtices ſhall have the ſame puniſhment, and beſides ſhall ſuffer perpetual impriſonment.

XIX. Conventicles, which comprehend conſpirators and confederators.

XX. Such as receive people to their avowment, to maintain them right or wrong.

XXI. Maintenance, when a man maintains a ſuit in law.

XXII. Champarty, when he maintains it, to have part of the thing ſued for.

XXIII. Offences in favour of malefactors, as

XXIV. Miſ-

XXIV. Miſpriſions, *viz.* the concealment of Treaſon or felonie, whereof the firſt is puniſhable by perpetuall impriſonment.

XXV. Theft-boot, when a man takes his goods from a thief with purpoſe to favour and maintain him; The puniſhment whereof is ranſome and impriſonment.

XXVI. Not aſſiſting the Sheriffe, Conſtable, or other Officer.

XXVII. Contempt of Juſtice, as

XXVIII. Such as flie for fear, when Treaſon or Felonie is done by any.

XXIX. Such as in caſe of Treaſon or Felonie tarry the Exigent.

XXX. Such as ſuffer themſelves to be out-lawed.

XXXI. The King may impriſon the body of him that is outlawed, untill he purchaſe his Charter of pardon.

XXXII. Perjurie and ſubornation of perjurie.

XXXIII. Forgerie.

XXXIV. All other falſhood in matter of Juſtice.

CHAP. 17.

I. THe fourth kinde of publique offences againſt the flouriſhing eſtate of the Realm, as againſt the Colour, and ſanguine complexion thereof.

II. And this, in divers manners, as well in matter of Traffick, buying, ſelling, and the like, as otherwiſe.

III. In matter of Traffick, buying and ſelling, &c. as

IV. Practices, which tend to make the commodities of the Realm more dear, as,

V. To tranſport the commodities thereof without the Kings licenſe, or paying his Cuſtomes.

VI. Fore-ſtallers, Regradors, and Ingroſſers, under which all Monopolies are comprehended.

VII. Conſpiracies of Merchants, Tradeſmen, and the

the like, who by combination amongſt themſelves, put certain prices upon commodities, which are to be ſold.

VIII. Falſe weights and meaſures.

IX. Out of the courſe of Traffick, as

X. Things which tend to the deſtruction of the commodities of the Realm, as

XI. Depopulation of Towns, and the like.

XII. Burning of a dwelling houſe, or of a Barn neer adjoyning thereunto.

XIII. Burning corn in a Barn, or the like.

CHAP. 18.

I. IN the ſixt and laſt place are ſuch offences to be ranked, as are committed againſt the falſe paſſages and wayes of the Countrey, as againſt the feet and toes of the Common-wealth, as

II. Bridges, Cawſeys, High-wayes, Streets, &c. broken, or out of repair.

III. To this place common Nuſances, Purpreſtures, &c. may be referred.

IV. Such Nuſances any man may abate.

V. And as to Nuſances, there is a writ in the Regiſter.

VI. Where a Lazer or Leper will go in publique, the writ *de leproſo amovendo* lies to remove him out of the company of men to ſome ſolitary place.

CHAP. 19.

I. THus far of treſpaſſe, it remaineth to ſpeak of offences, againſt the Crown, which are criminal offences puniſhable by death.

II. *Here alſo all the offenders both hereditaments and chattels, not onely in poſſeſſion, but ſuch alſo as he hath but a right to, are forfeited to the King*, viz.

III. *Here-*

III. *Hereditaments, from the time of the offence, and chattels from the time of the attainder onely.*

IV. In theſe and all other forfeitures, the Town is chargeable with the goods.

V. The blood alſo is here corrupted.

VI. The wife loſeth her Dower.

VII. *Thoſe that flie for fear of the offence forfeit their chattels to the King.*

VIII. Acceſſories after the fact *viz.* witting maintainers, and ſuch as voluntarily ſuffer one arreſted to eſcape are guilty of the ſame offence.

IX. *Concealing the offence forfeiteth chattels, and hereditaments alſo during life.*

X. Offences againſt the Crown are felonie or High Treaſon.

XI. Felonie is an offence of the Crown not immediately bent againſt the State.

XII. Here, the forfeiture of the offenders inheritance is given to the Lord.

XIII. *The King is alſo utterly to waſte the Inheritance.*

XIV. Felonie is bare felonie or petty treaſon.

XV. Bare felonie is a felonie of the loweſt nature, and is puniſhable by hanging.

XVI. This is ſingle or mixt.

XVII. Single, as ſtealth and man-ſlaughter.

XIII. Stealth is the wrongful taking of goods without pretence of title.

XIX. Inne-keepers muſt anſwer for goods of their gueſts ſtolne.

XX. *Goods confiſcated which the thief, attainted for ſtealing another thing, diſclaimeth to have any property in, and waifes,* viz. *which a thief waiveth, are the Kings, if he ſeize them before the party from whom they were ſtolne.*

XXI. But if the party from whom they are ſtolne ſeize them firſt, or doing his diligence to apprehend the thief,

thief, convict him afterwards, he ſhall have his goods again.

XXII. The ſtealing of goods which exceed not the value of 12 *d.* (termed Petty Larcenie) doth onely forfeit chattels.

XXIII. Man-ſlaughter is the killing of any perſon born into the world.

XXIV. But if one live a year after the act committed, which was the cauſe of his death, it is no felonie in him that did the Act.

XXV. The killng of one by chance in doing a lawful act, or in his own defence, flying as far as he may to ſave his life, forfeiteth onely chattels.

XXVI. But the killing of one that attempteth to rob him, (whether upon the high way, or when men come to his houſe, and compaſſe it about to burn it, though they do not burn it, whereupon he iſſueth out and killeth one of them) is neither felonie, nor cauſeth any forfeiture at all.

XXVII. *Any unreaſonable thing killing a man, It and every thing moving with it, is forfeit to the King, and theſe are termed* Deodands.

XXVIII. Man-ſlaughter is Chance-medly, or Murther.

XXIX. Chance-medly is man-ſlaughter without former malice.

XXX. Murder is man-ſlaughter upon former malice.

XXXI. He that murdereth himſelf (we call him *Felo de ſe*) doth onely forfeit his chattels.

XXXII. Mixt felonie is that kinde of bare felonie, which riſeth from the former, and it is Robbery or Burglary.

XXXIII. Robbery is ſtealth from ones perſon by aſſault in the High-way.

XXXIV. Burglary is the night-breaking of an houſe

houſe with an intent to ſteal or kill, though none be killed, nor any thing ſtoln.

CHAP. 20.

I. THus much of bare felonie: Petty treaſon is a felony of an higher nature then bare felonie is, the puniſhment whereof is burning.

II. This is againſt mortal creatures, or againſt God.

III. Againſt mortal creatures, as petty treaſon (properly ſo called) and Sodomie.

IV. Petty treaſon (properly ſo called) is the killing of any to whom private obedience is due; as ones maſter, miſtris, husband, &c. for which (inſtead of burning) a man ſhall be hanged and drawn.

V. Sodomie is a carnal copulation againſt nature, *viz.* of a man or woman in the ſame ſex, or of either of them with beaſts.

VI. Againſt God is that, which is immediately bent againſt his Majeſtie, as Hereſie and Sorcery.

VII. Hereſie is a preſumptuous oppugning of an Article of faith.

VIII. In caſe of hereſie, the party, before he can be burnt, muſt be convict in a Provincial Synod, and after abjuration make a relapſe into the ſame, or ſome other Hereſie.

IX. Sorcery is a conſulting with Devils, and containeth under it Conjuring, Necromancy, and ſuch like.

CHAP. 21.

I. HIgh Treaſon is an offence of the Crown directly bent againſt the State.

II. Alſo to kill the Chancellour, Treaſurer, a Juſtice of either Bench, a Juſtice in Eyre, of Aſſize, or Oyer and Terminer being in their places, and doing their Offices, is High Treaſon.

III. Here

III. Here, the punishment is, by drawing, hanging, and quartering for a man, and drawing and hanging for a woman.

CHAP. 22.

I. THus we have gone through both the parts of the Law; there remaineth yet one general and common affection scattered throughout the whole law (as the blood is through the body) which we call *Action*.

II. Action is the handling of a cause in controversie before certain Judges, who (in respect of the place where they are set to do Justice) are commonly called a *Court*.

III. Of all apparent faults proceeding from the Action the Court must take notice.

IV. Every Court hath power to award forth precepts, and if the precept be not served, another of the like nature shall go forth till it be served.

V. To every Court do belong Clerks and Officers.

VI. A Clerk is he that serveth for things to be done in Court.

VII. Any errour that appeareth to the Court to be the Clerks mistaking, may be amended at any time.

VIII. Officers are those, who are to serve the Courts precepts, and to certifie the Court thereof.

IX. Courts are Courts of Record, or Court-Barons.

X. Of Record, which are the Kings Courts.

XI. These have such credit, that no averment can be taken against any thing there entred or done.

XII. Things also, that cannot be granted but by deed, passe here by matter of Record.

XIII. *The King taketh hereditaments by matter of Record onely.*

XIV. Villeinage beginneth onely by confessing a mans self to be one in a Court of Record.

XV. Duties of the Teſtator growing by Record muſt be anſwered by Executors before other duties.

XVI. Courts of Record, are the Parliament, or Courts that have ordinary juriſdiction.

XVII. The Parliament is a Court of the King, Nobility, and Commons aſſembled, having an abſolute power in all cauſes.

XVIII. Statutes of reſtraint binde not the King, unleſſe they concern the Common-wealth, or he be ſpecially named.

XIX. He may licenſe things forbidden by the Statutes.

XX. But where the Statute ſaith his licenſe ſhall be void, there it muſt have a clauſe of Non obſtante, viz. *this clauſe, notwithſtanding any ſtatute, &c.*

XXI. Courts of Record, which have ordinary Juriſdiction, are either general, whoſe juriſdiction extends throughout the Realme, or but within ſome Countie.

XXII. The former are thoſe that are holden in *Term*-time onely, the whole year having four Terms, *viz.* Michaelmas and Hillarie Term, Eaſter and Trinity term, and every term ſeveral dayes of Return.

XXIII. Michaelmas term (beginning the 10 of *October*, and ending the 28 of *November*) hath eight Returns, *Octabis Michaelis, Quindena Michaelis, Tres Michaelis, Menſe Michaelis, Craſtino animarum, Craſtino Martini, Octabis Martini, & Quindena Martini.*

XXIV. Hilarie term (beginning the 23 day of *January*, and ending the 12 of *February*) hath four Returns, *Octabis Hillarii, Quindena Hillarii, Craſtino Purificationis, & Octabis Purificationis.*

XXV. Eaſter Term (beginning 17 dayes after Eaſter and ending the Munday next after Aſcenſion day) hath five Returns, *Quindena Paſchæ, Tres Paſchæ, Menſe Paſchæ, Quinque Paſchæ, & Craſtino Aſſentionis.*

XXVI. Trinity term (beginning 12 dayes after Whitſunday, and continuing 19 dayes) hath five Returns,

turns, *Octabis Trin. Quind. Trin. Craſtino Johannis Baptiſtæ, Octab. Johannis Baptiſtæ, Quindena Johannis Baptiſtæ.*

XXVII. To theſe Courts belongeth the power of ſending forth Writs.

XXVIII. A writ is a Latine letter of the Kings in parchment, ſealed with his ſeal.

XXIX. All writs have a ſalutation, *Rex*, to ſuch an one *ſalutem*, and a concluſion expreſſing the place, as *apud Weſtmonaſterium, &c.* and the time (both day and year) of making it; if it be returnable, the day of the return is alſo appointed in it.

XXX. The third writ (termed the *Pluries*) not ſerved, is a contempt.

XXXI. And therefore the third writ hath alwayes this clauſe in it, *vel cauſam nobis ſignifices*; ſo may the ſecond (termed the *Alias*) alſo have, if the Plaintiffe will.

XXXII. The Officer of theſe higher Courts is the Sheriffe, to whom is committed the cuſtodie of the Countie.

XXXIII. For matters ſpiritual the Ordinary is their Officer.

XXXIV. Theſe general Courts are the Chancery and two Benches, the Kings Bench and Common place.

XXXV. Chancery, which dealeth in ſuits concerning the King.

XXXVI. Here the Judge is the Chancellor, having the cuſtody of the Great Seal of *England*, under which paſſe all writs out of the Chancery with *Teſte meipſos.*

XXXVII. The Kings Grants are alſo entred of Record in this Court.

XXXVIII. Such grants are effectual, to paſſe a freehold, from the King without any Livery.

XXXIX. And being Matters of Record, they take

effect from the time of the Date.

XL. In default of a Chancellor the Lord Keeper of the great Seal hath his Authority.

XLI. The Keeper (or Maſter) of the Rolls is an aſſiſtant to this Court.

XLII. In the Kings Bench and Common place, the Jndges are one Chief Juſtice, and three (and ſometimes more) other Juſtices.

XLIII. The *Teſte* of their writ is *Teſte Johanne Popham*, the Chief Juſtice for the time being.

XLIV. The Kings Bench is that, which dealeth properly with pleas of the Crown.

XLV. The Common place, which dealeth properly with Common Pleas.

XLVI. *The King hath a proper Court of this kinde for all things touching his Revenues, called the* Exchequer.

XLVII. The Judges whereof are called Barons, being one chief Baron and three other.

XLVIII. And this alſo hath a Court of Chancery before the Cancellor and Barons of the Exchequer, called the Exchequer-chamber.

XLIX. The Eſcheator here is a ſpecial Officer, and hath a kinde of a Court for finding out the Kings title to lands tenements, and other things.

L. Thoſe Courts, which deal but within ſome County, are the Sheriffes Turn, and the Coroners Court.

LI. The Sheriffes Turn is a Court of Record for offences, which are common grievances.

LII. Whereunto every man of the age of 12 years and upwards (being within the Precinct) oweth ſuit, and muſt be there ſworn to the Kings allegiance.

LIII. But Peers of the Realm are excepted.

LIV. The offender here ſhall be amerced, and diſtrained for that amerciament.

LV. The Coroners Court is a Court for matters of the

the Crown, as Battery, Mayhem, Rape, Murder, &c.

LVI. Upon juſt execution to the Sheriff, proceſſe out of the higher Courts ſhall be directed to the Coroners.

LVII. *The Steward and Marſhal of the Kings houſe have a Court for all perſonal actions, and pleas of the Crown ariſing there.*

LVIII. By reaſon of certain Franchiſes, grow two other Courts of Record, which deal within ſome certain Precinct, *viz.* a Leet, and a Court of Pipowders.

LIX. A Leet is a Court of Record, having the ſame Juriſdiction within an hundred, or ſome leſſe Precinct, which the Sheriffs turn hath in the County, the profit thereof being to a common perſon.

LX. A Court of Pipowders is a Court of Record, incident to Faires and Markets, for all Actions ariſing there, and the ſuit muſt at the ſame time be commenced.

LXI. *The King (by commiſſion under his Letters, Patents) may erect other Courts at his pleaſure.*

LXII. Such were Juſtices in *Eyre*, and ſuch are Courts of Record in Corporations and other places, by ſpecial Charter.

LXIII. Theſe are the Courts of Record: a Court Baron is the Court of a common perſon.

LXIV. This Court is for perſonal accompts under forty ſhilling.

LXV. Theſe cannot be kept oftner then every three weeks.

LXVI. The proceſſe here is by precept to the Bailiffe.

LXVII. The Suitors are the Judges.

LXVIII. A Court-Baron is the Lords, or a County-Court.

LXIX. The Lords Court is either of a particular Mannor, or of an whole Hundred.

LXX. The Hundred Court is that, whereunto all

the Inhabitants within the Hundred owe ſuit.

LXXI. The County Court, which is incident to the Sheriffe, and hath Juriſdiction over the whole County.

CHAP. 23.

I. OF an Action there be two parts, the ſuit and the judgement.

II. Suite, is the parties dealing in the Action.

III. Here for their help they are allowed Councel learned in the law.

IV. The ſuit hath two parts, the beginning and the proceeding.

V. The beginning is the proper duty of the Plaintiffe.

VI. This alſo hath two parts; the firſt matter of the ſuit, and the original proceſſe.

VII. The firſt matter of the ſuit muſt alwayes be brought in that County, where the cauſe of ſuit groweth.

VIII. The firſt matter of the ſuit is for every man, by writ out of the Chancery; or in Courts, where writs lie not, by Plaint or Bill; for the King alone, by Inquiry.

IX. In all of the firſt kinde the Plaintiffe muſt finde ſurety (by ſome that will be his pledges) to proſecute the ſuit.

X. And theſe may be either to the Officer, or to the Court where the ſuit is.

XI. A poor man inſtead of ſureties ſhall give his faith to proſecute it.

XII. Writs that begin the ſuit, are original, or commiſſional.

XIII. Original, which appoint the firſt proceſſe (if the Plaintiffe finde pledges) returnable in the King's Bench, or Common Place.

XIV. Thi

XIV. This muſt be true Latine, and alſo formal.

XV. And it muſt expreſſe the name of Baptiſme, and Sirname, or (in lieu thereof) the name of dignity both of the Plaintiffe and Defendant.

XVI. Where there be many of one name, diverſity of the names muſt be put by addition of Elder, younger, and the like.

XVII. The Kings ſervants in his Court, or others by ſpecial grace of the Chancellor may here be admitted to finde pledges in the Chancery.

XVIII. Writs original are concerning Common pleas, or appeales that concern life.

XIX. Thoſe that concern common pleas lie not for or againſt a feme covert without her husband.

XX. Many having or giving joyntly cauſe of Action may ſue or be ſued together in one.

XXI. Several Actions of one nature may be joyned in one original with ſeveral *Præcipes*, or commandements to be executed.

XXII. Here in place of action againſt the King, Petition muſt be made unto him in the Chancery.

XXIII. And that (in caſe of hereditaments) though the King have granted the ſame away.

XXIV. whereupon proceſſe ſhall go out againſt the Grantee to maintain his title.

XXV. But whileſt perſonal things, ſeiſed for the King, remain in the Officers hands, the party that hath right may ſue the officer, or diſturb him to take the profits.

XXVI. Petition is a ſupplication declaring the parties right, where mention muſt be made of all the Kings title.

XXVII. The writs, which concern common pleas, are Real or Perſonal: and they both are again *Præcipes* or *Si fecerit te ſecurum's*.

XXVIII. A *Præcipe* is that which willeth the Sheriffe

riffe to command the defendant to do ſomewhat in certain, that the Plaintiffe ſueth for, which if he do not, then to ſerve the firſt proceſſe.

XXIX. The forme hereof is, *Præcipe* A, *quod reddat* B, *&c. Et niſi fecerit, &c. tunc ſummon. &c.*

XXX. A *Præcipe* is, a *Præcipe quod reddat*, or a *Præcipe quod faciat*.

XXXI. A *Præcipe quod reddat*, which lieth for things in render.

XXXII. A *Præcipe quod faciat*, which lieth for things not in render, *viz.* in feſance, as a writ *de conſuetudinibus & ſervitiis, ſecta ad molendinum, &c.* or in ſufferance, as a *Quod permittat, &c.*

XXXIII. A *Si fecerit te ſecurum* is that, which willeth the firſt proceſſe to be ſerved without more ado.

XXXIV. The form hereof is, *Si* A *fecerit te ſecurum de clamore ſuo proſequendo, tunc ſummon, &c.*

CAAP. 24.

I. REal actions, where a free-hold ſhall be recovered, are poſſeſſorie or in the right.

II. Poſſeſſorie, which are to recover a poſſeſſion.

III. In the right, which are to recover a poſſeſſion mixt with the right.

IV. And both theſe may be of a poſſeſſion or right in himſelf, or deſcended from his Anceſtor.

V. Real actions in the right, are either founded upon the right, or for the meer right.

VI. Real actions, where the free-hold ſhall be recovered, lie only againſt the tenant of the freehold.

VII. With the freeholder may be joyned in action any having title to enter.

CHAP.

CHAP. 25.

I. A Real *Præcipe quod reddat*, is that which is for real things in render, and it is a plea of land or other ſuch *Præcipe*.

II. A plea of land, which is for land or other ſuch things in demeſne.

III. Where land in certain is demanded, it muſt alwayes be brought in a Ville, or place known out of any Ville.

IV. A plea of land is a writ of entry, or a writ ſhewing the demandants title.

V. A writ of entry is that, which is to diſprove the tenants poſſeſſion by the means of his entry.

VI. Wherein tenant in fee-ſimple demanding of the poſſeſſion of his Anceſtor, ſhall ſay in the writ, *Quod clamat eſſe Jus, & hereditatem ſuam.*

VII. A writ of entry is either againſt the firſt party, or in the degrees.

VIII. Againſt the firſt party, when it is againſt him, to whom the firſt alienation was, or that made the Diſſeiſin.

IX. That in the degrees, is in the *per*, or in the *per* and *cui*.

X. In the *per*, when he, againſt whom it is brought, commeth in immediately under the firſt partie, as heir unto him, or by alienation from him.

XI. In the *per* and *cui*, when he, againſt whom it is brought, commeth in immediately under the firſt parties heir or alienee.

XII. Writs of entry grow either without wrong at the firſt, or upon a wrong.

XIII. Thoſe without a wrong at the firſt are grounded upon a determination of the firſt eſtate, or upon a diſability in the perſon that made it.

XIV. Up-

XIV. Upon a determination of the eſtate, either by reaſon of a particular eſtate ended, or a condition broken.

XV. Of a particular eſtate ended, is an *ad terminum qui præteriit*, or *Entry ad communem legem.*

XVI. *Ad terminum qui præteriit*, is upon a deforcement by the leſſee, or a ſtranger, after the Leaſe for years or life expired.

XVII. *Entry ad communem legem*, is when tenant for life doth alien and die.

XVIII. Of a condition broken, as *Cauſa matrimonii prælocuti.*

XIX. Cauſa matrimonii prælocuti, is for a woman that giveth land to a man to marry her, and he will not.

XX. Thoſe grounded upon the diſability of the perſon, are a *Dum fuit infra ætatem*, and a *Dum non fuit compos mentis.*

XXI. Dum fuit infra ætatem is by the Infant, when he commeth to his full age, upon an alienation by himſelf, or his anceſtor being within age.

XXII. But the clauſe that he is of full age, *(viz. qui plenæ eſt ætatis)* ſhall not be inſerted in the Writ, if either it be brought in the degrees, *per*, *cui*, or *poſt*, or upon the anceſtors alienation.

XXIII. *Dum non fuit compos mentis*, is upon the alienation of himſelf, or his anceſtor being of *non ſane memorie.*

CHAP. 26.

I. THoſe upon a wrong at the firſt, are upon a diſcontinuance or an Ouſter.

II. Upon a diſcontinuance, as a *Cui in vita*, or a *ſine aſſenſu capituli.*

III. A *Cui in vita*, for the wife after the husbands death upon his alienation of her fee-ſimple, fee-tail, or free-

fee-hold, or of ſuch a Joynt eſtate in them.

IV. And in this writ, claiming a fee-ſimple, ſhe ſhall ſay, *Quod clamat eſſe Jus & hereditatem ſuam.*

V. If it be an eſtate of fee-ſimple, and ſhe bring not (in her life time) a *cui in vita*, the heir ſhall have a *ſur cui in vita.*

VI. And of this nature is a *Cui ante divorcium*, when it is brought by the wife after divorcement, upon ſuch an alienation, as before.

VII. A *ſine aſſenſu capituli*, is for the ſucceſſor of a Biſhop, Abbot, Prior, Dean, Prebendare, Maſter of an Hoſpital, &c. after the diſcontinuance of the Predeceſſour.

VIII. Upon an Ouſter, is either upon an Intruſion, or a diſſeiſin.

IX That upon an Intruſion is called a writ of Intruſion, and is for him in the reverſion or remainder in fee-ſimple or for life, after the death of tenant for life in Dower, or by the courteſie.

X. Upon a diſſeiſin, is when the diſſeſin is done to him or his anceſtor, as a Writ of Entry in the *Quibus*, or (which is all one) in the nature of an Aſſize.

CHAP. 27.

I. WRits that ſhew the demandants title are meer poſſeſſory or in the right.

II. Meer poſſeſſorie are thoſe, which are brought by the next heire upon an abatement after the death of any anceſtor, other then his Father, Mother, Brother, Siſter, Uncle, Aunt, Nephew, Neece, ſeized in demeſne, as of a fee-ſimple, the day of his death: Of this ſort are

III. A writ of *Ayell*, after the death of his Grandfather or Grandmother.

IV. A writ of *Beſayell*, after the death of his great Grand-

Grandfather or great Grandmother.

V. A writ of Coſinage, after the death of his great great Grandfather, or Grandmother, or any other Collateral Couſin, ſave thoſe above-mentioned in the ſecond *Rule* of this *Chapter*.

VI. In the right, is that which is to diſprove the right of the tenant, and is a writ of right in his nature, or a *præcipe in capite*.

VII. A writ of right in his nature, which ſheweth how the demandants right is grown, and is a *Formedon*, or a writ of Eſcheat, and Dower *unde nihil habet*.

VIII. A *Formedon* is a *præcipe quod reddat*, entitling the partie by the forme of the gift, and is a *Formedon* in remainer, or a *Formedon* in reverter.

IX. A *Formedon* in remainder, is for him in the remainder for life or in fee, upon a leaſe for life expired.

X. A *Formedon* in Reverter is for the Donor after the eſtate in tail determined.

XI. A writ of Eſcheat, is for the Lord upon an Eſcheat.

XII. Dower, *unde nihil habet*, is a writ for ones Dower, who hath received no part at all thereof.

XIII. A writ of Dower lieth againſt Gardein by Knights ſervice.

XIV. A *præcipe in capite* is a *præcipe quod reddat* for the meer right of lands holden in chief.

CHAP. 28.

I. OTher real *præcipe quod reddats* are thoſe, which are in reſpect of a Seigniorie, as a writ of right of ward, and a writ of right *ſur-diſclaimer*.

II. A writ of right of ward is to recover the wardſhip.

III. If it be for the recoverie of the wardſhip of the body, it lieth as well for Gardein in Soccage, as for Gardein by Knight-ſervice.

IV. But if it be for the recovery of the wardſhip of the

the land, it lieth onely for Gardien by Knight-ſervice.

V. A writ of right *ſur-diſclaimer*, is for the Lord to prove the lands to be beholden of him, when in an action, where the ſervices ſhould be recovered, the tenant in Court of Record diſclaimeth to hold of him.

VI. If in this writ the Lord can prove the Land to be holden of him, he ſhall recover the land it ſelf.

CHAP. 29.

I. A Real *præcipe quod faciat* is either to recover hereditaments, or ſome real things that concern them.

II. Thoſe that are to recover ſome hereditament, demanding of ones own ſeiſin, are in the *debet* and *ſolet*.

III. But demanding of the anceſtors ſeiſin, they are in the *debet* onely, and then are in all reſpects, as writs for the meer right.

IV. Theſe are either in reſpect of a Seigniorie, or to recover ſome other hereditament.

V. In reſpect of a Seigniorie, as a writ *de conſuetudinibus & ſervitiis*, and a *ſecta ad molendinum*.

VI. A writ *de conſuetudinibus & ſervitiis* lieth for the Lord that hath an eſtate for life, or a greater eſtate in the Seigniorie, and is defoiced of his ſervices.

VII. *Secta ad molendinum* lieth for the Lord, when the tenants that hold of him by grinding their corn at his Mill, withdraw their ſuit, and grinde elſwhere.

VIII. Thoſe that are to recover ſome other hereditament are a *Quare impedit*, and a *Quod permittat*.

IX. A *Quare impedit* lieth upon a diſturbance, where he or his anceſtors, or thoſe, from whom he claimeth, having at any time before preſented to a Church, himſelf is now diſturbed.

X. A *Quod permittat* lieth for one that hath common of paſture for his beaſts, being diſturbed by a ſtranger,

ſo

ſo as he cannot uſe his Common.

XI. Theſe that are to recover ſome real thing concerning hereditaments, are a *Curia claudenda*, or a covenant real, and other writs ſounding in that nature.

XII. A *Curia claudenda*, lieth for a free-holder when one that hath a Cloſe next adjoyning to him, which he ſhould keep incloſed, will not do it.

XIII. A writ of Covenant real lieth upon a Covenant to do a thing real, as to levie a fine of lands, &c.

XIV. Writs in the nature of a Covenant real, are a writ of *meſne*, and a *Warrantia cartæ*.

XV. A writ of *meſne* lieth for the tenant againſt the *meſne*, when the Lord *Paramont* doth diſtrain the tenant whom the *meſne* ought to acquit.

XVI. A *Warrantia cartæ* lieth for him that hath land or tenements warranted unto him.

XVII. Here the warrantors hereditaments are liable to the warrantie from the time of the action brought.

XVIII. Upon theſe writs a fine may be levied.

XIX. A fine is the acknowledging of an hereditament in the Kings Court, according to the covenant, to be his right that doth complain.

XX. Here, one of them muſt needs have ſuch an eſtate at the time of the fine levied.

XXI. That whereof the fine is levied, or any thing contained in it, may be granted back again to the Conſor by the ſame fine.

XXII. Fines executed binde all perſons, if claim be not made within a year.

XXIII. A feme covert joyning with her husband in a fine, it bindeth her for ever.

XXIV. Therefore the Juſtices muſt examine her, to ſee that ſhe do it willingly.

XXV. A grant by fine of a Seignioric, rent charge, rent ſeek, remainder, or reverſion, is preſently good, ſaving for bringing actions that run in privity between the tenant and him.

CHAP

CHAP. 30.

I. THus much of real *Præcipes*; Real *Si fecerit te ſecurums* are an Aſſize, and a *Juris utrum*, or other.

II. An Aſſize is ſuch a real plea meerly in poſſeſſion.

III. And this is either an Aſſize of ones own poſſeſſion, and an Aſſize of Mortdanceſter, or an Aſſize of Darrein preſentment.

IV. An Aſſize of ones own poſſeſſion, is an Aſſize of novel diſſeiſin, or an Aſſize of nuſance.

V. An Aſſize of novel diſſeiſin, is for a freeholder againſt his diſſeiſor (whether it be of land or rent) or the Bailiffe of the diſſeiſor, if himſelf cannot be found.

VI. This diſſeiſin being of a rent charge or rent ſeck, all the tenants of the land muſt be named, though he were diſſeiſed by one tenant onely.

VII. If the Lord diſtrain the tenant too often for the rent or ſervices, the tenant may have an Aſſize.

VIII. An Aſſize of nuſance is for him, whoſe freehold is ſpoiled by any nuſance.

IX. An Aſſize of his anceſtors poſſeſſion onely, called an Aſſize of Mortdanceſtor, is for the next heir upon an abatement after the death of his Father, Mother, Brother, Siſter, Uncle, Aunt, Nephew, or Neece, who was ſeized in demeſne, as of fee-ſimple the day of his death.

X. An Aſſize, which may be either of his own or his anceſtors poſſeſſion, called an Aſſize of Darrein preſentment, is upon a diſturbance, when himſelf or his anceſtor did laſt preſent.

XI. A *Juris utrum* is ſuch a real plea, founded upon the right of a Parſon or Vicar upon his predeceſſours alienation.

XII. This is the nature of an Aſſize, and *Juris utrum*

trum: Thoſe that follow are *a partitione facienda*, and *nuper obiit*, (both which between privies in blood) or a *Quo jure*.

XIII. A *Partitione facienda* lieth between co-parceners to compel partition to be made.

XIV. Therefore here for equality of partition, things that otherwiſe cannot, may be granted without deed.

XV. A *nuper obiit*, lieth againſt one privie in blood, that entreth after the death of the anceſtor, that died ſeized in demeſne.

XVI. A *Quo Jure* lieth for the tenant of the land, when one challengeth Common, there to try whether in right he ought to have any or no.

CHAP. 31.

I. THus far of Reall Actions: A perſonal Action is that, wherein dammages ſhall be recovered.

II. This Action being once ſuſpended, is gone for ever.

III. Executors bringing ſuch an action, muſt do it in all their names, as well of thoſe that refuſe adminiſtration, as of the reſt; but an action may be brought onely againſt thoſe that do adminiſter.

IV. In perſonal actions growing in reſpect of a poſſeſſion in Common, Tenants in Common are in all reſpects as Joincenants.

V. In perſonal *Præcipes* damages onely ſhall be recovered, where the thing it ſelf cannot be had.

VI. Perſonal *Præcipes quod reddat*'s are debt and detinue.

VII. Debt, when any thing is due upon a contract.

VIII. If the debt be money due from one to another in their own right, it is in the *debet* and *detinet*, otherwiſe in the *detinet* onely.

IX. *when any of the Kings goods come into a ſubjects hands,*

hands, his land at all times after is chargable for the ſame, into whoſe hands ſoever it afterwards comes.

X. Of this nature is a writ of Annuity, which lieth for him that hath an Annuity, be it money or other things, as cloaths, bread, &c.

XI. This writ is in the *debet* for any other thing, as well as for money, and not in the *detinet*, therein differing from an action or debt.

XII. Detinue is, when any thing is with-holden.

XIII. Perſonal *Præcipe quod faciats*, are an action of accompt and an action of covenant.

XIV. An action of accompt, which is for an accompt to be made.

XV. *The King may have it againſt Executors, and ſo can no other.*

XVI. An action of Covenant, which is for a Covenant to be holden.

CHAP. 32.

I. PErſonal *Si fecerit te ſecurum*'s are of things done without force, or where force is coupled with it.

II. Of thoſe without force, ſome go not ſo far as breach of the peace, others do break it.

III. Thoſe that break not the peace, are theſe that follow.

IV. *Ration abili parte bonorum*, for the wife and children of one deceaſed, to have their part of the goods.

V. *Valore maritagii* for Guardian in Knight-ſervice, when the heir at full age refuſeth to ſatisfie him for his marriage.

VI. A writ of forfeiture of marriage, which is to recover the double value againſt ſuch an heir, marrying himſelf within age, without the Lords aſſent, and at full

age putting out the Lord.

VII. Intrusion of ward, when the heir by Knight-service entreth, and putteth out the Lord.

VIII. *Ejectione custodiæ*, for any Guardian by Knight service or soccage, against a stranger ejecting him of the land, or body of the heir, or both.

IX. *Quare ejecit infra terminum* for lessee for years against the feoffee in fee, or for life, of his lessor.

X. Here, the term it self shall be recovered, if it be not past.

XI. Trespasse upon the case of things not against the peace, as *Assumpsit*, for an assumption or promise to be performed, and the like.

XII. This lieth not against Executors.

XIII. Here, and in all other actions of trespasse upon the case, the writ must comprehend all the matter of substance.

XIV. The other that break the peace, but not *vi*, are called trespasses against the peace.

XV. And of this kinde are especially (of the nature of such a trespasse) an action of deceit, and an action of conspiracie.

XVI. An action of deceit, is upon any deceit committed.

XVII. Here, if it be upon a non-summons in a plea of land, whereby he loseth the land by default, or such like, it must be brought during the life of the Summoners.

XVIII. In a writ of deceit the Plaintiffe shall recover all that he hath lost.

XIX. Conspiracie (in the nature of a trespasse) is upon conspiring by many to prejudice a man wrongfully.

XX. Such are trespasses without force: an action of trespasse coupled with force, is an action of trespasse for a trespasse done.

XXI. An

XXII. An Action of treſpaſſe brought in a Court Baron muſt not ſuppoſe it to be done by force and armes.

XXIII. And therefore no *Capias* lieth there in ſuch caſe.

XXIIII. Special actions of treſpaſſe are theſe that follow.

XXIV. *De parco fracto*, for taking a diſtreſſe out of the Pound.

XXV. Reſcous, for taking a diſtreſſe away before it be impounded.

XXVI. *Ejectione firmæ*, when leſſee for years of land is ouſted, where the term it ſelf ſhall be recovered, if it be not paſt.

CHAP. 33.

I. THeſe are Common Pleas: an Appeal that concerneth life, is the parties private action, proſecuting alſo for the Crown, in reſpect of a felonie.

II. Appeals of the death of a man are given to the heir of the party ſlain.

CHAP. 34.

I. THus far of original writs: Commiſſional are theſe, which are not returnable but determinable before the parties to whom they are directed.

II. Theſe are Commiſſionary, or meer Commiſſions.

III. Of the firſt ſort are thoſe that give authority to a Court Baron to hold plea.

IV. Here the ſuitors are the Judges, not the Sheriff or Steward.

V. Theſe are a writ of right patent, or a *Juſticies*.

VII. In both these the same course is holden, as in those that went before.

VIII. A writ of right patent is a writ for the meer right of Tenements holden of a common person, to be brought in the Lords Court of that Mannor.

VIII. If he hold no Court, or otherwise yield his Court to the King for that time, then it may be in the Kings Court with this clause, *Quia B capitalis Dominus nobis inde non misit rectum.*

IX. This writ must shew by what service the land is holden.

X. The writ remaineth always with the party himself.

XI. If one privie in blood, not past the third degree, enter after the death of the Ancestor, that died not seized, in such case, a writ of right patent is called a writ of right *de rationabili parte terræ.*

XII. A woman that hath received part of her Dower, shall have a writ of right of Dower patent for the remnant, whereof she is to be endowed.

XIII. A *Justicies* is a writ, that giveth the County Court power to hold plea.

XIV. And therefore it is called a Vicontial writ; of this sort are,

XV. An Assize of petty nusance, where a mill, or such like is levied to ones nusance.

XVI. All of them are comprehended in these Verses,

Fulcum ges lendinium
Fab, fur, porta domus, vir, gur, mo, murus avils,
Et pons traduntur hæc vicecomitibus.

XVII. Admeasurement of Dower by the heir, when his Guardian, or himself endowed the wife in his nonage of more then she ought to have.

XVIII. Admeasurement of pasture by a Commoner, whom another Commoner wrongeth, by putting in more beasts into the Common then he should.

XIX. Here,

XIX. Here, all the Commoners shall be admeasured.

XX. A *nativo habendo* for the Lord, that hath an Inheritance in any Villein, when his Villein departeth away from him.

XXI. Here, if the Villein plead that he is frank, the Sheriff cannot proceed.

XXII. *Rationabilibus divisis*, for that Lord, whose land or waste hath by little and little been incroached upon within time of memorie until now, by a Lord, whose Seigniorie adjoyneth in another ville, against the Lord so incroaching.

XXIII. A *homine replegiando*, for one imprisoned, or in prison deteined, where he should not.

XXIV. A *Replevin*, for goods or chattels distreined.

XXV. This may be both by writ and plaint in any Court Baron, as well as in the County-Court.

XXVI. This being by plaint, it shall not proceed, if any thing touching the freehold come in question.

XXVII. Upon the *Pluries* not served by the Sheriff, his power is determined, and the parties shall plead in Bank.

XXVIII. Many of the actions, that went before both for real things to be done, as *Consuetudinibus & servitiis, secta ad molendinum, Quod permittat*, Mesne, Dower *unde nihil habet*: And also personal actions, as annuity, debt, detinue, accompt, covenant, trespasse, to what summe soever, may as well be brought in the County by *Justicies*, as to be returnable in the Common Place.

XXIX. Meer Commissions are these that follow, being all of them to be directed to choice persons, such as it shall please the King.

XXX. *Oyer* and *Terminer*, to hear and determine upon some heinous offence committed.

XXXI. In these and such like commissions lie pro-

perly, a writ of Association, and *Si non omnes*.

XXXII. Association is a writ for other to be associate into their company.

XXXIII. *Si non omnes*, is a writ for the rest to proceed, although the other come not.

XXXIV. *Ad quod damnum*, to enquire what hurt it may be to the King, Countrey, or any other, for the King to grant such or such a thing.

XXXV. *Perambulatione faciendâ*, to enquire of the bounds of two Seigniories or Towns, where an incroachment by little and little is supposed to have been made.

XXXVI. This must be by the mutual assent of both Lords.

CHAP. 35.

I. SO far of writs; it followeth, to speak of Plaints and Bills, both being in such Courts as hold plea without original writ.

II. A plaint is in matters that concern Common Pleas.

III. A plaint of trespasse in a Court Baron shall not proceed, if the freehold come in question.

IV. A Bill is in pleas of the Crown, as an appeal of felonie, mayhem, rape, &c. may be by Bill before one Coroner of the County, finding first sureties to the Sheriff.

V. One, whose attendance is necessary in any Court shall sue and be sued there in form of Plaint, which is called a Bill of *Priviledge*.

CHAP. 36.

I. THe King hath a speciall means of suit for trying of the right of Franchises, usurped upon him, called a Quo warranto, and is to be brought before the Justices in Eyre.

II. An Enquiry for the King is, when matter for the King is found by a Jurie, called an *Enquest of Office*.

III. The

III. This may be before the Officers, as Sheriffs, Escheators, Coroners, &c. *Virtute officii, Brevis*, or *Commissionis*, to them directed.

IV. Here, the number of twelve is not of necessity requisite.

V. An Enquiry is an office or presentment.

VI. An Office, which findeth matter to entitle the King to some possession.

VII. Upon as high a matter of Record to avoid the Office, as the Office it self, a man may traverse it.

VIII. If the office be for personal goods, the party may alwayes have a traverse, or plead any matter unto it, unless the Escheator have accounted for them; and that although the office finde the Kings title to be by matter of Record.

IX. The King upon office finding for him, if his entry be lawful, and the possessions to be had at the time is presently in possession.

X. Also he shall be answered all the mean profits from the time of his title.

XI. Upon an Office found *virtute officii*, whereby the King is entitled to ones wardship, the heir shall never have *livery, viz.* the land delivered out of the Kings hands.

XII. But upon a perfect office, *Virtute, Brevis*, or *Commissionis*, (if it be a special writ or commission, not a general one to inquire of all wards) he may.

XIII. Therefore here the heir is allowed these Commissions following, or writs in the nature of such Commissions, *viz.* 1. For finding of an office for the King. 2. For the having of the land out of the Kings hand.

XIV. Those for the finding of an office are *Diem clausit extremum, Mandamus*, and *Devenerunt*, to inquire, what lands holden of the King, and what of others, the ancestor was seized off, the day of his death, who is his next heir, and of what age.

XV. The *Diem clauſit extremum* is to be ſued within the year after his death.

XVI. The *Mandamus* is after the year; and here, it muſt further be inquired, who took the profits.

XVII. The *Devenermnt* is, when the anceſtor died in ward to the King.

XVIII. Upon defect in Offices found by vertue of ſuch writs or commiſſions, theſe writs following ſhall iſſue out to make them perfect, *viz.*

XIX. A *Quæ plura*, upon leaving of any land out in theſe offices.

XX. A *Melius inquirendum*, upon any other defect in the Office.

XXI. A *Datum eſt nobis intelligi*, upon an Office finding lands to be holden of any other perſon, when there is a Record to proye; that they are holden of the King.

XXII. The writs for having the lands out of the Kings hands, are an *Ætate probanda*, and a writ of *Livery*.

XXIII. An *Ætate probanda*, is to enquire whether he be of full age, or not.

XXIV. A writ of *Livery* is after a perfect Office, finding a tenure in chief; to have all the lands delivered to him at once by the King.

XXV. Two being found heirs by one and the ſame title, the King ſhall not make Livery, until by enterpleader the truth be diſcuſſed at his full age, that was found heir firſt.

XXVI. Amongſt Co-parceners the King upon Livery ſhall make partition.

XXVII. He that holdeth of the King by Knight ſervice, but not in Chief, ſhall not ſue Livery. But when he commeth to his full age, ſhall have an *Ouſter le main*.

XXVIII. A preſentment is an enquiry finding ſome offence

offence againſt the King, which is alſo called an Indictment.

XXIX. Every ſtrong ſuſpition of ſuch offence appearing of Record hath the force of an Indictment.

XXX. Without an Indictment the King can have no ſuit upon a wrong done, principally to another, but done to himſelf, he may.

XXXI. For the preventing of divers offences, *viz.* treſpaſſes to the body and felonies, and committing them that offend to priſon, untill they may be iudicted, and ſo duely puniſhed, every Hundred hath his High Conſtable, and every ſeveral tithing within the Hundred hath his petty Conſtables or Headboroughs.

XXXII. Any man, ſuſpecting another of a felonie committed, or but intended, may arreſt him.

XXXIII. With indictments of treſpaſſe, informations upon penal Statutes (ſuch as inflict a pecuniarie mulct, or other penalty upon offenders) have a neer affinity.

XXXIV. Indictments of the death of a man are to be taken before the Coroners.

CAAP. 37.

HItherto of the firſt matter of the ſuit; it followeth to ſpeak of original proceſſe.

II. Original proceſſe is, that proceſſe, which is until the defendant do appear.

III. Original proceſſe is proper or improper.

IV. Proper, which is to bring ſome matter into Plea, or ſolemn action; and it is ſingle or mixt.

V. Single, which is by the poſſeſſions onely (lands or goods) or onely by the perſon.

VI. That by the land is of two ſorts; firſt, ſummons and Grand *Cape* in a real *Præcipe quod reddat.*

VII. The ſummons is the warning of the tenant in his

his land by certain ſummoners.

VIII. The ſummons upon an action brought againſt one as heir, muſt be in the land that did deſcend.

IX. If it be to recover the freehold of land it ſelf, it muſt be in the ſame land.

X. A Grand *Cape*, is to take the Land into the Kings hands by the view of lawful men, with a ſummons of the tenant to anſwer, as well to his default, as to the demandants action.

XI. If the tenant be returned, ſummoned, where indeed he was not, the writ ſhall abate.

XII. Secondly, it is ſummons and re-ſummons, in a Mortdanceſter, *Juris utrum*, and an Aſſize of *Darrein* preſentment, and upon default the Enqueſt awarded.

XIII. Original proceſſe by the goods, as in Aſſizes of *novel diſſeiſin*, and nuſance, where the original proceſs is, *Pone per vadios & ſalvos plegios*.

XIV. A *Pone per vadios, & ſalvos plegios*, is a proceſs to attach the defendant by certain of his proper goods, being meer perſonal chattels, which he ſhall forfeit, if he appear not, and upon ſuch default the Inqueſt (ſummoned by the writ) is preſently to be awarded to recognize the Aſſize.

XV. The original proceſſe by the perſon is a *Capias*, (which is a proceſſe to impriſon him) then an *exigent* or ſolemn demand at five ſeveral County Courts immediately following one another, and for not appearing, *Outlawry*.

XVI. This Judgement of Outlawry is given by the Coroner in the fift County, and is onely in mayhem, felonie, and treaſon.

XVII. If the *Exigent* be returned not fully ſerved without any folly in the Plaintiffe, he bringing an *Exigent de novo*, before any other County holden, ſhall have the benefit of the former Counties.

XVIII. Outlawry diſableth him from ſuing any action.

XIX. *By*

XIX. By Outlawry all his chattels are forfeit to the King, even ſuch as he hath but a right unto.

XX. In Mayhem there muſt be three *Capias, (viz. Capias, alias, & pluries)* two in Felony, *viz.* Stealth, Robbery, and Burglary) and onely one in the death of a man and High Treaſon.

XXI. In Felony and Treaſon, they that tarry the Exigent forfeit their chattels.

XXII. A mixt original proceſſe is that which is ſo by his goods, as for want of goods, reſort may be made, ſometimes to his land, and ſometimes to his perſon, and ſometimes to both.

XXIII. Thoſe of the firſt ſort are in all other real actions, and in all perſonal actions (except treſpaſſe and offences againſt the Publique) and in all *Juſticies*, *Summons* by the goods, *Attachment*, (or a *Pone per vadios, &c.)* and a *diſtreſſe* infinite.

XXIV. Diſtreſſe infinite is a proceſſe to diſtrein him continually after, till he do appear by certain of his goods and profit (or iſſues) of his lands, which he loſeth if he appear not.

XXV. Upon this diſtreſſe muſt be returned in iſſues, the value of all his lands from the *Teſte* of the writ, until the day of the return.

XXVI. With theſe iſſues the land is chargable.

XXVII. In ſuch proceſſe as theſe, if the defendant be a beneficed Clerk, he muſt be warned by his perſon or land, if he have any Lay-fee; otherwiſe, proceſſe ſhall go out to the Ordinary to make him appear by the iſſues of his benefice.

XXVIII. Here alſo, if upon the ſummons a *nihil* be returned, *viz.* that the partie hath nothing whereby to be ſummoned; in ſuch caſe there ſhall iſſue forth a continual *Capias*.

XXIX. But a *Capias* lieth not here againſt a Peer of the Realm, becauſe by common intendment he muſt have free-hold.

XXX. In

XXX. In a Replevin in the County Court, if the goods be conveyed away, ſo as at the tenants ſuit they cannot be reſtored, proceſſe of *Witherman* lieth, which is for the Plaintiffe to have of the others goods, untill reſtitution of his own.

XXXI. Thoſe of the ſecond ſort are, in all treſpaſſes upon the caſe, and in all offences in the nature of treſpaſſes upon the caſe, an *Attachment*, *diſtreſſe* infinite, and upon *nihil* returned a continual *Capias*, as before.

XXXII. Here for contempts a *Capias* lieth againſt Peers of the Realm.

XXXIII. Thoſe of a third ſort are, in treſpaſſe *vi*, and offences againſt the publique; *Attachment*, *diſtreſſe* infinite, and upon *nihil* returned, three *Capias*, *Exigent*, and *Outlawry*.

CHAP. 38.

I. THus far of proper original writs, which begin an Action, beſides which there are certain other originals out of the Chancery, which are not deductory to bring any matter into plea or ſolemn action, but only commandatory or prohibitory to do, or to leave ſomething undone.

II. Upon theſe writs no proceſſe lieth, and therefore they may be termed *Improper* Originals.

III. The Commandatorie writs of this nature are theſe that follow.

IV. *De Dote aſſignanda*, which is for the wife of the Kings tenant, when the King is entitled, by office to land, whereof ſhe is dowable.

V. This writ is alwayes directed to the Eſcheator, and may be either to deliver her ſuch part of her land, as is already aſſigned to her in the Chancery for her dower, or for the Eſcheator himſelf to aſſign her part unto her.

VI. If

VI. If her husband held in chief, then she must first take an oath in the Chancery not to marry without the Kings licence.

VII. *De Homagio capiendo*, which is for the tenant by Homage Ancestrel to compel the Lord to receive his homage.

VIII. *De scutagio habendo*, for the Lord to have Escuage of his tenants by Knights-service, when the same is due upon a Voyage Royal, &c.

IX. *De auxilio ad filium suum militem faciendum, & filiam maritandam*, for the Lord to have such aid of his tenants where it is due.

X. *De Corodio habendo*, to have a Corodie for his servant.

XI. *De annua pensione habenda*, to have a pension granted to his Chaplain, untill he be promoted to a benefice.

XII. *De libertatibus allocandis*, for one single person or bodie corporate impleaded before the Kings Justices, to have the liberties formerly granted unto them, to be allowed.

XIII. *De executione judicii*, to have a judgement executed: and this is a *Justicies*.

XIV. *De restitutione temporalium*, where the temporalties before seized into the Kings hands are to be restored to a Prior or Bishop elect and consecrate.

XV. *De securitate pacis*, for him that is in fear of corporal hurt, or of the burning of his houses, to be secured of peace in that behalf, against the party, whom he feareth, where a corporal oath must be taken by him, that standeth so in fear.

XVI. *De vi laica removenda*, to remove all Lay-force in any Church.

XVII. Of cleansing streets, to have the wayes, streets, and lanes of a Town corporate to be made clean, when they be apt to cause infection by their nastinesse and stench.

XVIII. *De*

XVIII. *De leproſo amovendo*, to remove a Leper or Lazar (that will come abroad) from the company of men to ſome ſolitary place of abode.

XIX. *De excommunicato capiendo*, upon a *ſignificavit*, *viz.* the Ordinaries certificate into the Chancery, that one excommunicate ſtandeth out 40 dayes, to impriſon him, until he ſatisfie holy Church: And this writ alſo is a *Juſticies*.

XX. *De excommunicato deliberando*, to deliver him out of priſon, when the Church is ſatisfied.

XXI. *De cautione admittenda*, when one taken by an *excommunicato capiendo* offereth ſufficient pledge or caution to obey holy Church, which is refuſed, to have that caution admitted, and to be delivered.

XXII. *De hæretico comburendo*, to cauſe one convicted for an heretique to be burnt.

XXIII. *De Coronatore eligendo*, to chooſe a Coroner in full County by the free-holders of the County.

XXIV. *De Coronatore exonerando*, to diſcharge a Coroner of his Office upon juſt cauſe.

XXV. This writ is directed to the Coroner himſelf.

XXVI. *De electione viridariorum Foreſtæ*; to chuſe a Verdor of the Foreſt.

XXVII. *De exonerando viridario Foreſtæ*, to diſcharge a Verdor of the Foreſt.

XXVIII. *Congè d'eſlire*, to Dean and Chapter (or ſuch like) to chuſe their Biſhop.

XXIX. A writ for the Royal aſſent to ſignifie to the Ordinary his aſſent to the election of an Abbot, &c. and to will him to execute that which belongeth unto him.

XXX. This is alwayes directed to the Ordinary himſelf.

XXXII. *De ſecuritate invenienda, quòd non ſe divertat in partes exteras ſine licentia Regis*, to compel one to

to finde ſufficient mainpernors in a reaſonable ſum of money, not to go into forreign parts without the Kings licenſe, nor any there to attempt in contempt or prejudice of the King, or hurt of the people; nor to ſend any thither for any ſuch cauſe.

XXXII. All *Dedimus poteſtatems*, the principal of which are theſe that follow.

XXXIII. Dedimus poteſtatem, to give the Kings Royal aſſent to the election of an Abbot, or the like, made or to be made, and to ſignifie ſo much by his letters to the Ordinary, that he may do that which belongeth to him, and to receive fealty, &c. Commanding the party to do the premiſes.

XXXIV. Dedimus poteſtatem de fine levando, to certain perſons to take the acknowledgment of a fine out of Court, when one that hath agreed in the Kings Court to levie a fine, is ſo feeble, that he cannot travel.

XXXV. The Chief Juſtice of the Common Place may take the acknowledgement of a fine without any *dedimus poteſtatem.*

XXXVI. Dedimus poteſtatem de Attornato faciendo, for the Judges to admit an Attorney for one in a ſuit.

CHAP. 39.

I. PRohibitorie improper original writs are thoſe that follow;

II. A Protection *cum clauſula nolumus*, to free ones poſſeſſions, that nothing be taken againſt his will for the Kings buſineſſe.

III. Parſons, or other ſpiritual perſons not to be charged to the payment of fifteens for goods in their poſſeſſions, annexed to their Churches.

IV. *Quod Clerici non elegantur in Officium Balivi*, for a Clerk not to be choſen an Officer for his lands.

V. A

V. A prohibition to forbid tenant in Dower, or by courteſie of *England*, or Guardian by Knight-ſervice, or in ſoccage to commit waſte to the deſtruction of the Inheritance.

VI. A *Quo minus*, for grantee of Eſtovers, to reſtrain the grantor from committing waſte, ſo as he cannot have his eſtovers.

VII. *De exoneratione ſectæ*, for tenants by ſuit of Court, or other ſervices, that they be not diſtreined to do the ſame for ſuch time, as they ought to hold the land diſcharged.

VIII. *De exonerando pro rata*, to diſcharge the tenant of parcel of the Land, according to the rate of his land, when he is lawfully diſtreined for all the rent and ſervices.

IX. *De eſſendo quieto, de Tholonio*, to Officers not to grieve ſpiritual perſons, and others, that ought to be quit of paying of Toll, Murage, Pannage, Pontage, &c.

X. *De non ponendo in Juratis*, to diſcharge Peers of the Realm, and other perſons privileged, from being of Juries, unleſſe their preſence be for any ſpecial cauſe neceſſary.

XI. *Ne exeas regnum*, to the party himſelf to inhibit him from going into forreign parts without the Kings licenſe.

CHAP. 40.

I. THus far the beginning of a ſuit: the Proceeding followes, which hath two parts: The Count, and the Pleading.

II. The Count is a larger declaration of the ſubſtance of the original writ, and therefore is uſually termed a *Declaration*.

III. In reall actions, which are in the right, the demandant

mandant muſt alledge the taking of the profits, called *Eſplees*, in the declaration.

IV. Inſtead of the Count a Plaint ſhall be made in Aſſizes of novel diſſeiſin, and in writs of Dower a demand.

V. Pleading is the parties debating of the ſuit.

VI. Every plea muſt be offered to be proved true, by ſaying in the plea, *Et hoc paratus eſſe verificare*, and this termed an *averment*.

VII. An advantage of a matter, which cannot be pleaded, ſhall be ſaved by proteſting, not acknowledging it to be true, although the matter pleaded paſſe againſt him.

VIII. Pleas are either of the defendant, when he is firſt brought in to anſwer, or the mutual pleas of both.

IX. In a joynt action againſt two or more, one of them appearing ſhall not anſwer, till the other come in to anſwer, or the ſuit be finiſhed againſt him, as by death, outlawry, &c.

X. An Action by or againſt an Infant, as heir, ſhall not proceed, till his full age, unleſſe it be apparant, that by proceeding he cannot be prejudiced.

XI. But in a writ of Dower an Infant heir ſhall not have his age.

XII. The defendants firſt pleas are dilatory, or to the action.

XIII. Dilatory, which are before any plea in Bar.

XIV. When an action is brought againſt many, they muſt joyn in the plea, if they intend to plead theſe dilatories.

XV. Dilatory Pleas are exceptions, or forein advantages.

XVI. Exceptions are dilatories grounded upon the matter it ſelf of the ſuit; and are in diſability or abatement.

XVII. Thoſe in diſability are to the juriſdiction or perſon, both which muſt be before the Count.

XVIII. To the juriſdiction, when it is alledged, that the Court ought not to hold plea of it.

XIX. To the perſon, when it is alledged, that the Plaintiffe ought not to be anſwered, as if he be outlawed, excommunicated, &c.

XX. But in caſe of excommunication the ſuit ſhall be put without day, onely till he be abſolved.

XXI. Thoſe in abatement are for any fault in the firſt matter of the ſuit.

XXII. For this cauſe the defendant may have *Oyer* of any thing tendred by the Plaintiffe, and not being parcel of the Record, as of the writ, condition, &c.

XXIII. Pleas in abatement are to the Count firſt, and then to the writ.

XXIV. Amongſt Pleas to the writ, exceptions that ariſe upon the view of the writ are to be pleaded before thoſe that are forein, as non-tenure, ſeveral tenancy, &c.

XXV. Pleas to the Count, are for inſufficiencie, variance from the writ, &c.

XXVI. Pleas to the writ, are for default of form, falſe Latine, &c.

XXXII. By waging of law for non-ſummons in a *precipe quod reddat*, the writ ſhall abate.

XXVIII. In aſſizes of novel diſſeiſin and nuſance, and in appeals of felonie, and *Juris utrum*, the defendant may have many pleas in abatement.

XXIX. The writ abating for ſome cauſe, that cannot be imputed to the plaintiffes folly, himſelf bringing another with ſpeed in the ſame Court againſt the ſame party, ſhall have all advantages of the former; and this is called a writ purchaſed by *Fourneys accompts*.

XXX. Forain advantages are delayes without exception to any thing; as in all actions, *Oyer* of the writ,

writ, &c. In reall actions, view, aid prayer, and voucher.

XXXI. View, is (in real actions) of the thing demanded, or of the land, whence it commeth, when it is ſo neceſſary, as without view the defendant cannot well anſwer.

XXXII. Ayde prayer is for the tenant for life, to requeſt him that hath the inheritance, to help him to plead: ſo muſt the Incumbent pray in aid of the Patron and Ordinary.

XXXIII. Voucher is the calling in of one that ſhould warrant, to anſwer the Action.

XXXIV. Here the vouchor loſing, the tenant ſhall recover in value againſt him any hereditaments, that he had at the time of the Voucher.

XXXV. Therefore Voucher is in liew of another action, where the original proceſſe is *Summons ad warrantizandum*, and then a Grand *Cape ad valentiam*.

XXXVI. If one be vouched within age, it is a *ſummons ad habendum viſum* firſt, and being awarded of full age, a ſummons *ad warrantizandum*, and Grand *Cape*, as before.

XXXVII. But if he be awarded within age, the *parol* ſhall *demurre* until his full age.

XXXVIII. If the ſummons *ad warrantizandum* or *habendum viſum* be not ſerved, then a *ſequatur ſub ſuo periculo* is to go forth, and if the tenant cannot get that ſerved, he loſeth his warranty; for it is *ſub periculo* of the tenant.

XXXIX. But in exchanges the hereditaments are liable from the very time of the exchange.

XL. In partition amongſt co-parceners from the death of their Anceſtor.

XLI. *The King ſhall not be vouched but prayed in aid of, within that caſe hath the force of a Voucher.*

XLII. So is it alſo of co-parceners.

XLIII. In an Aſſize of novel diſſeiſin, and nuſance voucher lieth not, unleſſe the vouchee be preſent in Court, and will by and by enter into warrantie.

XLIV. He that is impleaded in any action, wherein he may vouch and doth not, ſhall never have the benefit of a *warrantia Cartæ*.

XLV. Advantages in certain perſonal actions are Garniſhment and Enterpleader.

XLVI. Garniſhment is upon a writ of detinue, when it being alledged by the defendant to have been upon a bailment by the Plaintiffe and another, or for another upon condition, that other ſhall be brought in to ſhew, whether by reaſon of that Bailment himſelf or the Plaintiffe ought to have the goods, charters, &c.

XLVII. Enterpleader is, when divers bringing ſeveral writs of detinue, ward, or *Quare impedit* againſt the ſame perſon in the ſame County, and for the ſame thing, the reſt ſhall anſwer him, that brought the firſt writ.

XLVIII. *The King may appoint any place he thinketh good to be a ſafeguard for all offenders flying thither, that they ſhall not be moleſted, or compelled to anſwer, which priviledged places have in former times been called Sanctuaries.*

XLIX. Thus far of dilatory Pleas, Pleas to the action are ſuch as go to the body of the mattrer, and are Pleas in Bar or Confeſſions.

L. Pleas in Bar, are thoſe, which are to bar the Plaintiffe of his action.

LI. In theſe the defendant muſt make defence, as to ſay, *Defendit vim & injuriam quando, &c.*

LII. But no ſuch deſence ſhall be made in Dower, Aſſize of novel diſſeiſin, *per quæ ſervitia*, or Attaint.

LIII. The tenant may plead a warrantie in bar of him that ſhould warrant, if he bring the writ.

LIV. And

LIV. And though rhe tenant of the Land be a ſtranger to the warrantie, yet he may plead that he hath a third perſons eſtate, and ſo rebut by a warrantie made nto that perſon.

LV. But in writs of Dower the anceſtours warrantie is no bar.

LVI. A warrantie made by the diſſeiſor at the time of the diſſeiſin, barreth not the heir, and this is called a warrantie that commenceth by diſſeiſin.

LVII. In an Aſſize of novel diſſeiſin and treſpaſſe, the defendant pleading a title in bar, muſt give colour of title to the Plaintiffe.

LVIII. In the giving of this colour, theſe three things muſt be obſerved. 1. It muſt be to the plaintiffe, not to a ſtranger, or to the defendant. 2. It muſt be of ſuch a poſſeſſion, whereby he may maintain his action. 3. The Colour muſt be a matter doubtful in law, or otherwiſe difficult to the Lay-people.

LIX. In real actions for the meer right, when it is in reſpect of a diſſeiſin done, the tenant cannot traverſe the ſeiſin, but may tender half a mark to the King, to have it inquired by the Jurie: and being found, that the demandant was not ſeized in the time, whereof he counteth, that ſhall bar him for ever,

LX. *The tenant cannot tender half a mark againſt the King.*

LXI, The heir or executors in an action brought againſt them (where they are chargeable) pleading a matter in their own knowledge, which goeth in perpetual bar, ſhall be charged as in their proper duty, if it paſs againſt them.

LXII. In Aſſizes of novel diſſeiſin, nuſance, mortdanceſter, *Juris utrum*, and in Indictments and appeals of felony, the defendant may plead in abatement, and ouer in bar, or take the general iſſue alſo.

LXIII. In Aſſizes of novel diſſeiſin and nuſance,

he may plead a ſpecial matter, that amounteth but to a generall iſſue.

LXIV. Upon Indictments of felony and treaſon, the defendant being put to anſwer, is not allowed Counſell, if he denie the fact.

LXV. A preſentment in the Leet or Sheriffes turn, after the day of the preſentment bindeth the party for ever, and is not traverſable but in caſes that touch ones freehold.

LXVI. Therefore the courſe is, to remove ſuch preſentments into the Kings Bench by a *Certiorari*, where they may be traverſed.

LXVII. Confeſſion is, when the defendant confeſſeth the Plaintiffes action to be good.

LXVIII. The defendant confeſſing an Indictment of felony may accuſe others of the ſame offence.

LXIX. One that flyeth to a Church or Church-yard, and confeſſeth before the Coroner, when he commeth, the certainty of any bare felonie, where life and member is to be loſt, before he be thereof attainted, may abjure.

LXX. Abjuration, is his oath before the Coroner himſelf to depart the Realm for ever at the time and place ſet him; going the direct way thither; tarrying there but one floud and ebbe, if he can have paſſage: and till he can ſo paſſe, going every day into the ſea up to the knees to allay if he may paſſe over; and if he cannot paſſe within 40 dayes, then to put himſelf again into the Church, as a felon,&c.

CHAP. 41.

I. THus far the Pleas of the defendant, the mutual pleas of both, are the debating before iſſue, or the iſſue it ſelf.

II. Debating before iſſue, is the diſcuſſing of the materia

material things to draw it to ſome one iſſue.

III. Of the firſt ſort, are replication, rejoynder, ſurrejoynder, &c.

IV. In an aſſize againſt many, if each take the whole tenancie ſeverally, and plead ſeveral matters in bar, or one *Nul-tort*, and the other in bar, the plaintiffe at his peril muſt chooſe his tenant. And then after iſſue for the whole, the Tenancy ſhall be firſt inquired of, and being found for the Plaintiffe, then the other iſſue ſhall be enquired; but being found againſt him, and no title made againſt the tenant indeed, the writ ſhall abate.

V. In an action of treſpaſſe meer tranſitory, although the defendant juſtifie by any ſpeciall matter, yet the plaintiffe may take iſſue, that it was done *de ſon tort demeſne, viz.* wrongfully by the defendant without anſwering to that matter.

VI. If it be a treſpaſſe upon land, the defendant juſtifying in ſome other land then the Plaintiffe meaneth, the Plaintiffe may make a new aſſignment.

VII. An iſſue is, when both the parties joyn upon ſomewhat, that they refer to a trial to make an end of the plea.

VIII. This iſſue, is of the fact or of the law.

IX. Of the fact, when the proper contradiction of that, which one alledgeth, is ſet down by the other.

X. After which, if any inſufficient pleading appear in the Record, whether the iſſue be joyned thereupon (which is called a *Feofaile*) or no, the Parties muſt begin a new, where the firſt defect was.

XI. But no re-pleader ſhall be in an Aſſize, if the Plaintiffe have diſcloſed a ſufficient title.

XII. If the tender of this iſſue come on the plaintiffes part, the form is, *Et hoc petit, quod Inquiratur per recordum* or *Patriam, &c.*

XIII. If on the defendants part then it is, *Et de hoc*

ponit se super recordum illud, or *super Patriam*.

XIV. Iſſue in a writ of right cannot be joyned upon the meer right, but by the party himſelf, and this is called the joyning of the *miſe*.

XV. Where the Plaintiff in his replication maketh title at large, the tenant may joyn iſſue upon the title, by ſaying, *Veigne Aſſize ſur le title*., and this is called a *pleading to the action at large*.

XVI. But in a perſonal Action, when the title of the land cometh in queſtion, it lieth not till iſſue joyned, and yet in that caſe it never lieth for tenant for life, but onely for tenant for yerrs, Bailiffe, &c.

XVII. *Aid in theſe actions ſhall be of the King before iſſue joyned onely*.

XVIII. This being a matter *(in fait viz.)* done in the County is triable by the oath of twelve free and lawful men of the ſame County indifferently choſen.

XIX. Four of the Jury muſt be of the ſame Hundred.

XX. If the thing in iſſue lie in the notice of two ſeveral Counties, and not of one onely, the Jury ſhall be made equal out of both.

XXI. But upon an Indictment of an offence againſt the Crown, the trial ſhall never be by Joynder of Counties.

XXII. But if the defendant plead in any Action, that the Plaintiff is a villein regardant to a Mannor of his in another County, yet the ſame ſhall be tried in the County where the writ is brought.

XXIII. Where a Peer of the Realm is party to the Action, a Knight muſt be returned upon the Jury.

XXIV. In a Court of Pipowders, the trial is by the Merchants.

XXV. The Jurie in a writ of right is called the Grand Aſſize, being four Knights (or others in default of Knights) chuſing of twelve unto them.

XXVI. This Jury is called the *Grand Aſſize*, becauſe it alwayes conſiſteth of more then 12, *viz.* of 16.

XXVII. Upon

XXVII. Upon trial by Jury challenges are allowed for the parties (if they will) both to the *Array* and to the *Pols*, and are to be tried by ſome of the Jurors.

XXVIII. If it be before any Jurors ſworn, the Court ſhall chuſe Triers, but when any of the Jurors are ſworn, they muſt try it.

XXIX. Challenge to the *array*, is when the Jury is not ſufficiently empanelled.

XXX. Upon juſt cauſe of exception to the Sheriffe, and afterwards to the Coroner, the Court ſhall chuſe certain perſons to return the Jury, who are called *Eſliors*.

XXXI. And then the parties ſhall never afterwards make any Challenge to the *Array*.

XXXII. Challenge to the *Poll*, is when any of the Jurors are not fit to paſſe upon the trial.

XXXIII. This Challenge muſt be taken before the Panel be peruſed, and ſhall be tried by two of the Jurors choſen by the Court.

XXXIV. But Challenges, that ſound not in reproach of the Juror ſhall be examined upon his oath, which is called examination upon *Voire dire*.

XXXV. He that challengeth the *Array*, if it paſſe againſt him, (or that he releaſe it) ſhall never challenge the *Polls*, without ſhewing cauſe preſently, which ſhall be tried out of hand.

XXXVI. After challenge to a Juror for one cauſe, which paſſeth againſt the Challenger, he ſhall not challenge him for another.

XXXVII. In Indictments and appeals of felony, the defendant may challenge thirty five Jurors without ſhewing cauſe, and this is called a *Peremptory* challenge.

XXXVIII. When there lacketh ſome to fill the Jury, others of the ſame ſort ſhall be taken, till it be full and they are called a *Tales*.

XXXIX. The *Tales* muſt be an even number, and leſſe

leſſe then the principal Pannel, as *Decem Tales*, *Octo Tales*, *&c.*

XL. Every *Tales* muſt be of a leſſe number then the other, as after an *Octo Tales*, a *ſex Tales*, &c.

XLI. But in Indictments and appeals, that touch life, a *Tales* may be of a greater number then the principal Pannel.

XLII. The Jury being charged, may neither eat nor drink (but by leave of the Juſtices) before their verdict given.

XLIII. Doing ſo before they be agreed, it maketh their verdict void, but after they are agreed, it is onely finable.

XLIV. The Jury upon arraignment acquitting one that was found guilty of the death of a man upon an enquiry before the Coroners *ſuper viſum corporis*, muſt finde who did the fact.

XLV. The Jury in an Aſſize of novel diſſeiſin ſhall inquire of the plea in abatement.

XLVI. And therefore in ſuch an Aſſize no plea in abatement is anſwerable.

XLVII. An Infant bringing an Aſſize, if a matter done in the ſame County be pleaded againſt him, the Jury ſhall inquire of all the circumſtances.

XLVIII. The like inquiry of the circumſtances ſhall be, if in an Aſſize brought againſt him, he plead to the Aſſize at large.

XLIX. If the tenant in a *mortdanceſter* traverſe any point of the writ, yet the Jury ſhall inquire of all the points, and any one found againſt the Demandant, abateth the writ.

L. For the better direction of the Jury in their verdict, greater liberty is permitted in pleading a matter doubtful in law.

LI. For ſometimes a traverſe may be omitted.

LII. Sometimes alſo, the ſpecial matter may be pleaded

pleaded together with the general iſſue.

LIII. Likewiſe the Count may be abridged before verdict, ſo as the original remain true.

LIV. After acquittal upon an appeal or indictment of felonie or treaſon, he ſhall never be drawn in queſtion for the ſame offence again.

LV. In writs of right and in appeals, that touch life, trial may be by battail at the defendants choice.

LVI. The Battail in a writ of right muſt be by Champions, who muſt be freemen.

LVII. Here, the demandants Champion muſt have ſeen him or his anceſtors in poſſeſſion, and thereof take his oath.

LVIII. The Battail in an appeal muſt be in proper perſon; and therefore here the defendant is reſtrained from the choice of Battail (and muſt needs try it by Jury) if there be any notorious preſumption of the fact in him, or imbecility in the Plaintiffe: Alſo againſt a Peer of the Realm bringing an appeal, the defendant ſhall not wage Battail.

LIX. In a writ of Dower, iſſue taken upon the death of her husband, ſhall be tried by witneſſes.

LX. In ſome caſes alſo the trial ſhall be by the defendants oath, as 1. Where the tenant in a *Præcipe quod reddat* alledgeth, that he was not lawfully ſummoned according to the law of the Land. 2. In meer perſonal contracts growing without deed, or privitie of others, the defendant may wage his law.

LXI. Therefore in ſuch kinde of actions executors are not chargeable.

LXII. *No wager of Law ſhall be againſt the King.*

LXIII. But wager of law may be upon plaints in Court Barons for perſonal things under 40 *Sh.*

LXIV. An iſſue of Law (termed a *Demurrer*) is, when admitting the matters alledged, either of them reſt-

reſteth in the judgement of the Court,

LXV. The *demurrer* being joyned upon an exception to the original it ſelf, or Count for ſome fault appearing in them, doth onely drive the defendant to make a better anſwer (which is called a *reſpondes ouſter*) if it paſſe againſt him.

CAAP. 42.

I. THus far concerning pleading; the other mean acts are appearance and continuance, or judiciall proceſſe.

II. Appearance, is the parties coming into the Court; where upon common day given, the fourth day after the very day is allowed.

III. When the defendant appears not, as he ought, he is ſaid to make default.

IV. When the partie for not appearing ſhould have ſome great loſſe or corporal pain, he may appear, though the Officers return force him not to it.

V. If the Plaintiffe will not appear, when he is demanded at the day, (which is termed a *Non-ſuit*) or ſay in Court; that he will not ſue forwards, (which is a *retraxit*) this is peremptory, and loſeth him his Action.

VI. But in real Actions brought by many, if one will not proſecute, the reſt may alone; except in a writ *de nativo habendo*, and that is *in favorem libertatis*.

VII. For executors alſo ſummons and ſeverance lieth in perſonal actions.

VIII. If the defendant will not plead (which is called a *Nihil dicit*) this in all Actions is peremptory, and loſeth the action.

IX. So in perſonal Actions, if he appear, and after plea or demurrer joyned make default; this is alſo peremptory, and imports a *Nihil dicit*.

X. How-

X. Howbeit, either of the parties may for once be excuſed of appearance, if they demand it the firſt day or any of the four dayes, unleſſe the other enter an exception, that no Eſſoin be received.

XI. Alſo upon every mean appearance a new Eſſoin lieth.

XII. And this is called an Eſſoin *de mal venir*, or the common Eſſoin.

XIII. Beſides this Eſſoyn, there are divers other for ſpecial cauſes allowed, as of being beyond ſea, of going *ad terram ſanctam*, of the Kings ſervice, and *de malo lecti*.

XIV. Theſe laſt have a year and a dayes adjournment, whereupon an oath muſt be taken that the cauſe is true.

XV. But no ſuch ſpecial Eſſoin lieth in an Aſſize of novel diſſeiſin, Dower, Aſſize of *Darrein preſentment*, and *Quare impedit*.

XVI. Continuance is from day to day till the end of the ſuit.

XVII. Here, if the Plaintiffe do nothing, it is called a *diſcontinuance*.

XVIII. And if any errour be in the continuing, as by awarding a *Capias*, where a diſtreſſe ſhould be, it is called a *miſcontinuance*.

XIX. The ſuit of an excommunicate perſon ſhall be put without day, (termed *parol ſans Jour*) till he be abſolved.

XX. So it is alſo in all other caſes, which happen without his Plaintiffs folly.

XXI. After continuance taken, the defendant may for once leave his former plea, and plead any thing, growing ſince this later continuance.

XXII. Continuance is by proceſſe, or upon the *Roll*.

XXIII. That upon the Roll is a *dies datus*, or Emparlance.

XXIV. *Dies*

XXIV. *Dies datus*, when the Court giveth the parties day, and this is alwayes before the Count.

XXV. Such a continuance by assent of both the parties is called a *Prece partium.*

XXVI. But in Assizes the continuance is, by a *Justiciarii nondum advisantur*, and not by a *Dies datus.*

XXVII. Emparlance is, when the defendant demandeth day, to see if he may end the matter without further suit, which he may do once, but not oftner without the plaintiffes consent, and this is alwayes after the Count.

XXVIII. After Emparlance he cannot plead to the Jurisdiction or person, neither yet in abatement either of the Count or writ, nor demand *Oyer* of an Obligation, or the like.

XXIX. But after a special Emparlance, *Salvis omnibus advantagiis*, he may plead to the Count or writ, and also have *Oyer*; but not to the Jurisdiction or person.

XXX. In an appeal that toucheth life, if the defendant plead a plea, whereby his life should come in jeopardie, the plaintiffe shall not imparle unto it, but must answer *sedente curia.*

XXXI. Default after Emparlance is peremptory, and loseth the Action in all Actions reall and personall.

XXXII. Judicial processe, is a processe out of that Court, where the original is returned, prosecuting the Action.

XXXIII. Judicial processe are mesne processe, or in nature of new originals.

XXXIV. Mesne processe, which is for any necessary act to be done, not onely for the plaintiffe against the defendant, but for either of them against any other, whose presence in the Court may be necessary for them.

XXXV. Upon

XXXV. Upon a fine levied, before it be engroſſed, the writs to compel attornment are,

XXXVI. *Per quæ ſervitia*, when the fine is levied of a Seigniorie.

XXXVII. *Quem redditum reddit*, when it is of a rent charge or rent ſeck.

XXXVIII. *Quid juris clamat*, when it is of a remainer or reverſion.

XXXIX. *In Petitions, or whereſoever the King (being made partie) may be at loſſe, A writ of ſearch lieth, which is to ſearch in the Treaſurie before the plea proceed, if likelihood ſome matter may be found there to maintain his title.*

XL. In real *Præcipes*, where a freehold is to be recovered, upon default, after plea, iſſue, or *demurrer*, a *Petit cape* ſhall go forth to cauſe the tenant to anſwer to the default onely.

XLI. So upon a voucher a *Petit cape ad valentiam.*

XLII. In ſuch as are for other hereditaments (ſave the point of Seigniorie) as Annuity, *Quare impedit*, *Quare*, *Quod permittat*, *&c.* upon default, as before, a diſtreſſe ſhall go forth in liew of a *Petit cape.*

XLIII. The proceſſe againſt Jurors is a *venire facias* to the Sheriffe to return them, at which day if they appear not, then a *Habeas corpora*, and after that a diſtreſſe infinite.

XLIV. In an action of treſpaſſe (alwayes) whatſoever the iſſue be, *releaſe*, *juſtification*, *&c.* and in debt, detinue, account, and other perſonal actions, which are for things in certain, if the iſſue be taken upon matter in fact onely, and the defendant make default, the Jury ſhall be taken.

XLV. But if it be upon matter in writing, the plaintiff may there pray Judgement, if he will: howbeit,

if

if he do not pray it, the Jury ſhall be taken by default, as in an Action of treſpaſſe.

XLVI. But in Aſſizes of novel diſſeiſin, nuiſance, Mortdanceſter, Darrein preſentment, and *Juris utrum*, the original writ commandeth a Jurie, as well as the defendant to be warned, which ſummons to the Jury ſerveth inſtead of a *venire facias*, ſo that the proceſſe here againſt the Jurie, is *Summons*, *Habeas corpora*, & *diſtringas*.

XLVII. And therefore here, upon default after that original proceſſe ended (*viz.* the Attachment in an Aſſize of novel diſſeiſin and nuſance, and the ſummons and re-ſummons in a mortdanceſter, Darrein preſentment, and *Juris utrum*) the Enqueſt ſhall be taken by default.

CHAP. 43.

I. THus far of Meſne proceſs: Judicial proceſs in the nature of new originals (in none of which any freehold ſhall ever be recovered, but damages onely) are theſe that follow; firſt, ſuch as command to do ſomething, as

II. Re-ſummons, and Re-attachment, to receive in the former plight a ſuit put without day.

III. Theſe may either revive the original alone, or the whole proceeding by ſpecial words.

IV. All certificatorie writs.

V. *Certiorari*, to remove a Record out of a Court of Record into the Chancery.

VI. Writs to remove ſuits out of Court Barons.

VII. Theſe may be without ſhewing any cauſe in the writ, if the remove be at the Plaintiffs ſuit; but not without ſhewing good cauſe in the writ, if it be at the defendants ſuit.

VIII. Theſe

VIII. These are to remove pleas, by writ, or by plaint.

IX. Of the first sort are *Tolt* and *Pone*.

X. *Tolt* or *Tollas* is for the plaintiffe to remove a writ of right out of the Lords Court into the County Court.

XI. A *Pone* is to remove into the Common place in all other cases.

XII. But a *Pone*, to remove a Replevin by writ out of any other Court Baron, then the County Court, cannot be without shewing cause.

XIII. Of the second sort are a *Recordare*, and *Accedas ad Curiam*, in both which nothing but the plaint shall be removed.

XIV. A *Recordare* is to remove Plaints in the County Court.

XV. An *accedas ad Curiam*, is to remove plaints in any other Court Baron.

XVI. This also (upon good cause shewed in the writ) lieth for the tenant to remove the plea in a writ of right out of the Lords Court immediately into the Common place.

XVII. A *Mittimus*, to send a Record out of the Chancery into another Court of Record.

XVIII. But the Chancellor may send such a Record by his own hands (without any *Mittimus*) if he please.

XIX. A *Procedendo*, to proceed in suits.

XX. Of this nature is a writ of consultation, to proceed in the spiritual Court, when one, suing there for matters belonging to that Court, is restrained to prosecute the suit.

XXI. A writ of Mainprise, to set at liberty one bailable, finding bail to answer the Action.

XXII. Such persons bailable be they which are taken upon a *Capias* original.

XXIII. But not the defendant in appeal of mayhem, if the mayhem be heinous; nor the principal in an indictment or appeal of felony; nor the accessory after the attainder of the principal; nor any in high Treason.

CHAP. 44.

I. A Writ of Recaption, for him, whose goods being distrained before for rent or services, are distrained again for the same thing; hanging the plea in the County Court, or before the Justices.

II. A writ *de magna Assisa eligenda* to the Sheriffe, to summon four Knights to chuse the Grand Assize, when the *Mise* is joyned thereupon in a writ of right.

III. And this is a meer judicial writ issuing out of the Common place, when the Plea hangeth there.

IV. A Certificate of Assize upon an imperfect verdict given in an Assize, to bring in the same Jurors to give a more perfect one.

V. A *proprietate probanda* unto the Sheriffe, to inquire whether the property be to the plaintiffe or defendant, when upon a Replevin sued, the defendant claimeth property.

VI. And this also may be meer judicial, issuing out of the Kings Bench, or Common place, and returnable there.

CHAP. 45.

I. SEcondly, hither belong such writs, as are prohibitorie, or restrain from doing something, where the prohibition it self is in lieu of a summons, and after that the processe is an Attachment and distresse; of this sort are

II. Prohibitions to restrain the party from suing in an inferiour Court, that ought not to hold plea of it.

III. Such a prohibition is an *Indicavit* for the defendant

dants Patron, when the right of advowſon in any part of ones tithes is in demand in a ſpiritual Court, between two Clerks, claiming from ſeveral Patrons.

IV. A *ſuperſedeas*, to ſtay any further proceeding in a ſuit.

V. Of this nature are, a writ of Peace, for the tenant upon a writ of right brought in the Lords Court, vouching one to warrantie out of the power of that Court, which is called a *forein Voucher*, or joyning the *miſe* upon the grand Aſſize, to have the matter reſpited, untill the Juſtices in *Eyre* come thither, which writ, if he bring not, after ſuch voucher or *miſe* joyned, he loſeth his tenancy.

VI. *De libertate probanda*, for the Defendant upon a *Natrvo habendo* in the County Court, claiming to be frank, to the Sheriff, to adjourn the Plea before the Juſtices in *Eyre*.

VII. *Identitate nominis*, for one moleſted by a ſuit againſt another of the ſame name.

VIII. Protections *cum clauſula volumus*, when the King (in reſpect of the defendants being in his ſervice) taketh him into his protection for one year to be free from all ſuits.

IX. Therefore ſuch a protection ſhall for that time ſave all defaults.

X. Howbeit, writs of Dower, *Quare impedit*, Aſſizes of novel diſſeiſin, and pleas before the Juſtices in *Eyre* are excepted.

XI. This kinde of protection is double, *viz. Protectio quia profecturus*, when he is to go beyond ſea in the Kings buſineſſe.

XII. And *Protectio quia moratur*, when he ſtayeth there about it.

XIII. Of this nature alſo is a protection *quia in priſona*, when being ſent beyond ſea in the Kings wars,

he is there taken and detained in prison.

XIV. *The King may take his Creditor into his protection, that no other Creditor shall sue or arrest him, till the King be satisfied.*

XV. *He may also by a writ called* Warrantia Dei, *(rehearsing that one which should appear in proper person, is in his service) will, that for one day, no default be recorded, upon him.*

XVI. *Essoin de malo lecti*, which is a writ to warrant an Essoin of lying sick a bed cast by the tenant in a writ of right; Commanding four Knights to see him; and if he be sick, to give him adjournment of a year and a day.

XVII. A *Ne admittas*, for either partie in a *Quare impedit*, or assize of Darrein presentment, to the Ordinary, not to admit the others Clerk, till the matter be discussed.

XVIII. This writ must be sued within six moneths: otherwise the Ordinary may present by laps.

XIX. A *Quare incumbravit*, for him that sueth a *Ne admittas*, and afterwards recovereth in a *Quare impedit*, against the Ordinary for incumbring the Church, contrary to the *Ne admittas*.

CHAP. 46.

I. THus far of suit: Judgement is the Courts final determination of the suit.

II. Upon Judgement against the King in a petition, he is presently out of possession.

III. In a writ of right the judgment after issue joyned is final on either side.

IV. *Against the King judgement is not final, but is alwayes with a* Salvo jure Regis.

V. Recovery in a writ of right bindes all strangers, not

not claiming within a year.

VI. Tenant for life ſuffering a wrongful recovery, it ſhall not prejudice his right, that hath the Inheritance, though he be prayed in aid and make default.

VII. For after the death of tenant for life, he may falſifie it by action, of *ad terminum qui præterit*, or writ of right, which is called *falſifying* of a recovery.

VIII. In a writ of dower by feme Guardian in ſoccage againſt Guardian by Knight-ſervice, ſhe ſhall at his prayer be adjudged to endow her ſelf wholy of the land in ſoccage, and this is called Dower *de la plus beale*.

IX. A debt acknowledged in a Court of Record either to the King, or a common perſon, is in the nature of a Judgement, and called a *Recognizance*.

X. In appeals of mayhem, and in Indictments or appeals of felony, the acceſſory ſhall not be compelled to anſwer, till attainder of all the Principals.

XI. He that is, or (by poſſibility) may be within orders, namely, a Deacon at the leaſt, may have the benefit of his Clergy, if he be found culpable of any bare felonie, where life and member is to be loſt.

XII. This poſſibility (there being no other impediment) ſhall be tried by the Judges by his ableneſſe to read a verſe.

XIII. Clergie is the delivering of him to the Ordinary to be kept in priſon.

XIV. If it be before Judgement (in which caſe he is called a *Clerk convict*) he ſhall be tried there by a Jury of Clerkes, and therefore purging himſelf ſhall go at large.

XV. Not purging himſelf, but being found culpable by thoſe Clerkes, he ſhall be onely degraded.

XVI. But upon an appeal no purgation ſhall be allowed.

XVII. A Clerk convict ſhall anſwer to any offence, committed before.

XVIII. *A Clerk convict forfeiteth his chattels.*

XIX. *Notice must be given to the King of the time, before the partie make purgation.*

XX. If the Clergie be after Judgement (in which case he is called a *Clerk-attaint*) he shall remain in perpetual prison.

XXI. Outlawrie is a Judgement in it self.

XXII. So is Abjuration.

XXIII. The offender upon a presentment in a Leet or Sheriffes turn shall be amercied.

XXIV. The defendant in an appeal of felonie, being acquitted, shall have judgement also to recover damages against the plaintiffe.

XXV. The plaintiffe recovering in a suit shall be allowed his costs.

XXVI These judgements have their judicial writs belonging to them, both meer judicial writs for the execution of them, and new originals in the nature of judicial writs, to undo some matters concerning judgements.

XXVII Meer judicial writs in real or personal actions, are either such as lie onely within the year and day after the judgement rendred, or a *Scire facias*.

XXVIII. Those of the first sort are between the parties to the recovery, and in the same Court where the recovery was.

XXIX. Of this kinde are upon recovery in real and mixt actions,

XXX. *Habere facias seisinam*, to put him in possession upon a freehold recovered, in an Assize, *Præcipe quod reddat, &c.*

XXXI. A writ to the Bishop to admit ones Clerk upon a presentation recovered in a *Quare impedit*, or Assize of *Darrein presentment*.

XXXII. Those upon a recovery in personal actions

are

are of two ſorts, *viz.* to have execution of his poſſeſſions, or againſt his body.

XXXIII. Execution of his poſſeſſions, is either of his lands, or chattels, or both.

XXXIV. That of the land is either of the land it ſelf, or of profits out of the land.

XXXV. Execution of the land it ſelf is an *Habere facias poſſeſſionem*, upon a term of years recovered in an *Ejectione firmæ, &c.*

XXXVI. Execution of his chattels is a *Fieri facias*, to levie execution of his goods and chattels onely.

XXXVII. Execution of his lands and chattels, is a *Levari facias*, to levie execution of the profits of his lands and chattels.

XXXVIII. Here, execution ſhall be of any land, which to party had the day of the Judgement rendered, but for chattels (though it be a leaſe for years) onely thoſe, which he had the day of the execution ſued.

XXXIX. But in Court Barons execution is onely by diſtreſſe, and impounding till the party be ſatisfied.

XL. The King may have a *diſtringas* to levie an amerciament, or ſuch like, by diſtreſſe and ſale, whether it be an amerciament in the Leet or Sheriffes turn, or otherwiſe.

XLI. Execution againſt the body is a *Capias ad ſatisfaciendum*, to take the body in execution for ſatisfying of the parrie.

XLII. This is onely (in a perſonal action) where a *Capias* lay.

XLIII. Here an *Exigent* ſhall be awarded upon the firſt *Capias*.

XLIV. *Of this nature are two ſpeciall writs by the Kings Prerogatory*, Capias pro fine Regis, *and* Capias utlagatum.

XLV. *Capias pro fine*, when the partie is adjudged to pay a fine to the King.

XLVI. *Capias utlagatum*, to take one that is outlawed.

XLVII. These are the judicial writs within the year and day.

XLVIII. A *Scire facias*, is to warn the defendant upon recovery in real actions, to shew cause why the plaintiffe should not have execution.

XLIX. Here, upon a *Nihil* returned, execution shall be presently against the parties to the Judgement.

L. In case of life, the Judge may command execution to be done without any writ.

LI. A woman quick with childe shall for once (and no more) be respited execution.

LII. Here, the trial shall be by a Jury of women, and the writ for it is called, A writ *De Ventre inspiciendo*.

CHAP. 47.

I. THe new originals in the nature of Judicial writs to undo some matters concerning Judgements, are either writs grounded upon Errour, or an Attaint, and *Audita querela*.

II. Writs grounded upon Errour, are a writ of Errour and false Judgement.

III. Both these lie upon any errour in the proceeding.

IV. But errour in processe, may the same term be reformed in the same Court.

V. The processe here is a *Scire facias*.

VI. The party bringing a writ to reverse errour in the Judgement, may have a *Super-sedeas* to stay execution,

execution, till the errour be discussed.

VII. A writ of Errour is upon an errour in a Court of Record.

VIII. This may be sued in the Kings Bench, or Parliament.

IX. In the Kings Bench, when the errour is in the Common Place, or other inferiour Court of Record.

X. In the Parliament, when the errour is in the Kings Bench: and this is returnable before the King and the Lords onely.

XI. A writ of false Judgement is upon errour in a base Court.

XII. An Attaint, is to enquire, whether a Jurie of twelve men gave a false verdict.

XIII. This must be brought in the life of him for whom it passed, and of some of them that gave it.

XIV. It lieth onely in personal actions other then trespasses.

XV. The Jury here (called the *Grand-Jury*) are twenty four, who are to be warned the first day.

XVI. The processe against the party is summons, re-summons, as in Mortdancester, &c.

XVII. The processe against the petty Jury is *Venire facias*, and distresse.

XVIII. The petty Jury must be all present, when the Grand Jury is taken, and may plead in bar of the attaint, but not in abatement of the writ.

XIX. The plaintiffe in the Attaint can give no more Evidence then was given at the first; but the defendant in affirmance of the first verdict may.

XX. *Audita querela*, is for one being or to be in execution, to relieve him upon good matter of discharge, which he hath no means to plead.

XXI. The processe where the *Audita querela* is sued before execution, is a *venire facias* and distresse, and upon

on default after appearance and plea pleaded, a *diſtringas ad audiendum judicium*; for thereby judgement is to be given againſt him.

XXII. In caſe of an *Audita querela* ſued before execution, he may have a *ſuperſedeas* upon good matter of diſcharge ſurmiſed in the writ of *Audita querela*, to ſtay for once the execution upon ſureties.

XXIII. After execution the proceſſe is onely a *Scire facias*; for if the proceſſe ſhould be by diſtreſſe infinite, peradventure the partie would loſe iſſues to keep the others body in perpetual priſon.

Wingate's Abridgment 1655
See Clark p. 402

STATUTES:

CHAP. I.

Rule 1 IN the second Volume of old Statutes is a long Act made *Anno* 12. E. 1. entituled *Statuta Walliæ*, whereby it appeareth, that *Wales* was then incorporated into *England*, there are also many good Lawes concerning the division of *Wales* into Counties, also for trials of Actions, together with divers formes of Writs, and the proceeding thereupon, much like the Lawes of *England*, &c.

Stat. 27. *H.* 8. 26. Incorporateth *Wales* into *England*; and the other Statutes, that concern it, are 28. *E.* 3 2. 9. *H.* 4. 4. 2. *H.* 5. *Stat.* 2. 5. 26 *H.* 8 4. 26 *H* 8. 6. 27 *H.* 8. 7. 33. *H.* 8. 13. 34. 35. *H.* 8 26. 18 *El.* 8. 27. *El* 9.

Rule 35. *Stat.* 37. *H.* 8. 21. By assent of Ordinary, Incumbent and Patron under their seales, an union may be made of two Churches, being not above six pounds yearly value in the Kings Books, nor distant one from another above a mile; saving to the King his tenths and first fruits.

Incorporate Towns, it must be by assent of the Corporation.

If such a poor Parish will within a year assure by wri-

ting to the incumbent and his ſucceſſors, 8 *l.* yearly the union ſhall be void.

Rule 36. *&c.* *Magna Charta*, 36. 9 *H.* 3. If any ſhall give lands to a religious houſe, the grant ſhall be void, and the land forfeit to the Lord of the fee.

Stat. of Gloceſter, or *de religioſis*, 7 *E.* 1. If lands be aliened in Mortmain, the immediate Lord hath a year to enter, the next Lord half a yeare, and ſo from Lord to Lord, till it come to the King.

weſtm. 2. 32. 13. *E.* 1. Eccleſiaſticall perſons being debarred by the former ſtatutes to obtain lands in Mortmain by alienation, endevoured fraudulently to obtain them by default in a ſuit; And therefore in ſuch caſe it was ordained by this ſtatute, that it ſhould be enquired by the country, whether or no the Demandant had juſt title; and if ſo, then he ſhould recover ſeiſin; but if otherwiſe, the Lord of the fee ſhould enter as before.

weſt. 2. 41. The King] (founder of a religious houſe) may ſeize Lands, which he gave them, if they alien.

Ordinatio de perquirendis libertatibus. 27. *E.* 1. Before licences are obtained to Amortize lands, the writ *Ad quod damnum*, ſhall iſſue out of the Chancery to inquire concerning the ſame, *&c.*

The ſtatute of Amortizing of Lands, 34. *E.* 1. Lands ſhal not be aliened in Mortmain, where there be mean lords without their conſents declared under their ſeals; neither ſhal any thing paſs, where the donor reſerveth nothing to himſelf, or where the inquiſition is made, and returned without warrant, *viz.* without the writ Originall returned with the inquiſition, *&c.*

The ſtatute of writs for making inquiſitions of Lands to be put in Mortmain, Incerti temporis, Writs of *Ad quod damnum*, for amortizing lands ſhall not be granted, but upon petition in full Parliament.

Statutum de Clero, 3. 18 *E.* 3, If Prelates, Clerks be-

neficed

neficed, or other people of religion, being impeached for purchasing lands in mortmaine, shew the Kings charter of license, & process therupon made by an Inquest of *Ad quod damnum*, or of the Kings grace or by fine, they shall be in peace: And albeit they cannot sufficiently shew that they have entred by due process licence to them granted, yet they shall be well received to make a convenient fine for the same.

Stat. 15. *R.* 2. 5. Lands converted to a Church yard, or purchased to the use of any spirituall person Guilds, or Fraternities, or by a corporation shall be within the Statute of *Gloceſter*, 7. *E.* 1.

CHAP. 2.

Rule 3 *Præcog Reg.* 9. 17. *E.* 3. The King shal have the custody of the lands of naturall fools, taking the profits thereof without waste and finding them necessaries and after, their death, shall render them to the right heir.

Præc. Reg. 10. The King shall provide that the lands of lunaticks be safely kept without waste, and that they and their families (if they have any) shall be maintained with the profits thereof, and that the residue be kept for their use: and delivered unto them when they become to be of right mind: so as their lands shall not be alienes, neither shall the king have any profit therof to his own use: But if they dye in such estate, the residue shall be distributed for their souls by the advice of the Ordinary.

Rule 4. *Stat.* 1. R. 3. 1. All grants, conveyances recoveryes and other assurances, made by *Cesti que use*, (being of full age, *Compos mentis*, and at large) shall be good against him and all others claiming as his heir or heirs, or to his use, saving the right of all others.

Stat. 4. H. 7. 17. The heir of *Cesty que use* (of

Knight-service land) shall be in ward and pay relief.

Stat. 19. *H.* 7. 15. execution upon judgment, statute or recognizance shall be good against *Cesty que use.*

The heir of *Cesty que use* shall pay relief, herior, &c.

Cesty que use being a Bond man, the Land shall be seised by the Lord.

Stat. 27. *H.* 8. 10. Where any be seised to the use or trust of another, *Cesty que use*, or trust shall have the possession in such qualitie, manner, and condition, as he had the use or trust: so when any be seised to the use or intent that another shall have a yearly rent of the same lands, *Cesty que use* of the rent shall be deemed in the possession thereof, of like estate as he had that use.

Stat. 27. *H.* 8. 16. Bargaines and sales to raise an use of Inheritance or freehold must be by deed indented and inrolled within six moneths, in a court of record at *Westm.* or in the County where the land lieth.

Rule 9 *Stat.* 50. *E.* 3. 6. Fraudulent Assurances of lands or goods, to deceive Creditors shall be void, and the creditors shall have execution thereof, as if no such gift had been made.

Stat. 3 *H.* 7. 4. All deeds of gift of goods and chattels, made of trust to ones own use, shall be void.

Stat. 13. *El.* 5. Every gift, grant, bargain, and conveiance of lands, or chattles, or of a lease, rent, common, or other profits out of them, and every bond, suit, judgment and execution had or made for the defrauding of any persons just action, suit, debt, account, damage, penaltie, forfeiture, heriot, mortuarie, or relief, shall be void against that person, his heires executors, &c.

The parties, or privies (knowing such a fraudulent gift) which shall justifie it to be done *bona fide*, or shall alien such things so to them conveyed, forfeit one years value of the lands or profits out of it, and the whole value of the goods and chattles, and the sum of such

covenous

covenous bond, and shall have half a years imprisonment.

This Act extends not to common recoveries, nor vouchers in a *Formedon*, nor to any gift, &c. *bona fide*, and upon good consideration to any person, nor knowing of the fraud.

Stat. 27 El. 4. Every conveyance, grant, charge, lease, estate, incumbrance, or limitation of use of lands, tenements, or hereditaments made for the defrauding of purchasers of the land it self, or any part, or profit out of it, shall be void against the person so purchasing for money, or other good consideration, and against all claiming under him, with penalty, as in the former Statute.

This extendeth not to the avoiding of any grant, *&c.* upon good consideration and *bona fide*.

If any such conveyance, *&c* be made with a clause of revocation or alteration at his pleasure, by writing, and after he shall bargain, demise, sell, grant, convey, or charge the same lands, *&c.* for money, or other good consideration (the conveyance not revoked nor altered) then such conveyance, *&c.* shall be voyd against the bargainees, *&c.* and all claiming under them, lawfull mortgages only excepted.

Rule 11. *Prætog. Reg.* 15. 17. E. 2. The Kings gift or grant of land, or a Mannor *cum pertinentiis*, conveyeth, not Knights fees, advowsons, or dowers, without expresse words.

Stat. 1. *H* 4. 6. In a petition to the King for lands, annuities, offices, &c. their value shall be therein expresst; otherwise, the letters Patents thereupon shall be void.

Stat. 18. *H.* 6. 1. All Letters Patents, which bear not date the day of the delivery of the Kings warrant into the Chancery, shall be void.

Stat. 34. 35. *H* 8. 21. A confirmation of all estates ob-

tained by, or conveyed from the King within seven years after the fourth of *February*, in the 27 year of his raign, notwithstanding any misrecitall, non-recitall, *&c.* with divers provisoes, *&c.* therein contained.

Stat. 1. *E.* 6. 8. Such another Statute for the confirmation of all grants, made, and to be made by E. 6. from the 28 of *January* in the first year of his raign, and so during his life, with such provisoes, *&c.* as in the sayd Act of *H.* 8.

Stat. 4,5 *P.M.* 1. Another like Statute for the confirmation of grants made and to be made, to or by the Queen, or the King and Queen, from the first of *July* in the first year of her Reign, and so during her life, with provisoes, as in the former Acts.

Stat. 18. *El.* 2. Another like confirmation of all grants made to, for, or by the Queen, or to be made within seven years next after the end of this Session, with like provisoes, *&c.*

Stat. 43. *El.* 1. Another confirmation of grants made by Qu. El. from the eight of *February* in the 25 yeare of her raign, untill the end of this Session and a year after.

Stat. 21. *Jac.* 25. The King, *&c.* shall not take advantage of Forfeitures against his Patentees, before Commission Processe, *&c.*

Stat. 21. *Jac.* 29. A confirmation of Leases of the Duchy lands in *Cornwall.*

Stat. 1. *Car.* 2. Such another for Leases thereof, to be made within three years.

CHAP. 3.

Rule 6. *Stat.* 32. *H.* 8. 34. Grants of Reversions may enter upon Farmers for any Forfeiture (of condition) and have like advantages against them (by action onely, for any other Covenants, condition, or agree-

agreement contained in the Indenture of their leaſe) as the Leſſors, their heirs, or ſucceſſors might: And the like for the Leſſees againſt the grantees of reverſions, Recovery in value only excepted.

CHAP. 4.

Rule 9. *Stat. 6. H. 8* 15. If any make ſuit to the King for lands, offices, or other things, formerly granted to any perſon during the Kings pleaſure (the firſt Patentee being ſtill in life) the laſt grantee ſhall expreſſe in his Petition or patrent the former patrent, and the determination of the Kings pleaſure concerning the ſame, otherwiſe the laſt grant ſhall be voyd.

Rule 15. *Glaceſter 7. 6. E.* 1. If a woman alien her dower in fee or for life, the heir or other perſon, to whom the Land ought to revert, ſhall recover againſt the Alienee in her life time.

CHAP. 5.

Rule 5. *Merton, 9:* 20. *H.* 3. A child borne before Marriage is a baſtard, albeit the common order of the Church be otherwiſe.

Stat. 9. H. 6. 11. No writ ſhall be awarded to the ordinary to certifie Baſtardy, before three Proclamations be made in Chancery in three moneths, *viz.* once every moneth, that all perſons, who have any thing to object againſt the party for baſtardy, ſhall ſue to the Ordinary for that purpoſe.

Rule 8. *Merton, 5.* 10. *H.* 3. Uſury ſhall not run againſt any within age from the time of the death of his Anceſtor, (whoſe heir he is) unto his lawfull age; yet the principall with uſury due before the Anceſtors death ſhall be paid, notwithſtanding this Act.

Rule

Rule 10. *Stat.* 32. *H.* 8. 33. The dying ſeiſed of a diſſeiſor with force, and without title, taketh not away the entry of him and his heirs, who at the time of ſuch diſcent had good title of Entry, unleſſe the diſſeiſor had peaceable poſſeſſion by five years next after ſuch diſſeiſin.

Rule 14 *weſtm.* 2. 1. 13 *E.* 1. The will of the giver (according to the form in the deed of gift manifeſtly expreſſed) ſhall be from henceforth obſerved: ſo that they to whom the land was given under ſuch condition (*viz. that if the donee or donees ſhould die without iſſue, that then the land ſhould revert to the donor*) ſhould have no power to alien the land ſo given, but that it ſhall remaine to their iſſue after their death, or ſhall revert to the giver or his heirs, if iſſue fail; neither ſhall the ſecond husband of any ſuch woman, *being donee in tail*) from henceforth have any thing of the land ſo given upon condition, after the death of his wife, by the Law of England; neither ſhall the iſſue of ſuch husband and wife ſucceed in the inheritance; but immediatly after the death of the husband and wife, to whom the land was given, it ſhall returne to their iſſue, or to the giver, or his heirs, as aforeſaid.

A Fine levied of ſuch lands ſhall be void in Law, and the heir or reverſioner (albeit they be for full age, in England, and out of priſon) need not make their claim: Howbeit, this clauſe concerning a fine is altered by 32. *H.* 8. 39. which ſee *infra*.

Stat. 34. & 35. *H.* 8. 20. No common recovery of lands in tail, of the gift or other proviſion of the King or his progenitors (though it be with voucher againſt tenant in tail, the remainder or reverſion being in the King at the time of the recovery) ſhall bind the heir in tail, or bar him of his entry: Tenant in tail ſhall take no advantage for any recompence in value againſt the vouchee or his heirs.

Rule

Rule 24. *Mag. Cart.* 7.9. *H.* 3. The wife, after the death of her husband, ſhall abide in his chief meſſuage forty dayes, within which time her dower ſhall be aſſigned her: If the chief meſſuage be a Caſtle, then ſhe ſhall have a competent houſe provided her, til her dower be aſſigned.

Weſtm. 2.34.13.E.1. A woman that leaveth her huſband and abideth with an adulterer, ſhall not have Dower; unleſſe the husband (voluntarily and without coertion of the Church) reconcile her and ſuffer her to dwell with him.

Stat. 11.*H.* 7.20. If a woman that hath an eſtate in Dower for life, or in tail joyntly with her husband, or only to her ſelf, or to her uſe in any lands, &c. of the inheritance or purchaſe of her husband, or given to the husband and wife by the husbands anceſtors, or any ſeiſed to the uſe of the husband, or his anceſtors, do ſole (or which an after taken husband) diſcontinue or ſuffer a recovery by Covin, it ſhall be voyd, and he to whom the land ought to belong after the death of the ſaid woman, may enter (as if the woman were dead) without diſcontinuance or recovery: Howbeit, the woman may enter after the Husbands death, but if the woman were ſole, the recovery or diſcontinuance barreth her for ever.

This Act extends not to any recovery or diſcontinuance with the heir next inheritable to the woman, or by his conſent of Record enrolled.

Stat. 27.*H.* 8.10. Where an eſtate is made in poſſeſſion or uſe to Husband and wife and his heirs, or the heirs of their bodies, or of one of their bodies, or to them for their lives, or for the wives life for her Jointure; In any of theſe caſes ſhe ſhall not have Dower: Howbeit upon a lawfull eviction of that Jointure ſhe ſhall be endowed according to the rate of her husbands land whereof ſhe was dowable.

Such

Such a Joynture being made after marriage, the wife (after the husbands death) may refuse it, and be take her to her Dower, unlesse such Joyntute be made by Act of Parliament.

CHAP. 7.

Rule 7. *Stat. de districtione Scaccarii*, 51. *H.* 3. The owner of impounded cattel may give them food without disturbance.

A distresse taken for the Kings debt shall not be sold within 15 dayes, and upon shewing of a Tally and giving security for his appearance in the Exchequer upon the next accompt, the distresse shall cease. The Sherif shall also attach the party that received the debt, to be there likewise at the same time.

Neither draught cattel, nor sheep shall be distrained (except for *Damage-feasant*) so long as other goods may be found to satisfye the debt: Distresses shall be reasonable: The Sheriffe shall answer all debts received, and where the Sherif chargeth himself, the debt shall be quitted.

Marlebr. 15. 52. *H.* 3. It shall not be lawfull for any (except the King and his officers, having special authority) to take distresses out of his fee, or in the Kings high way, or in the common street.

Marlebr. 4. None shall drive a distresse out of the County, wherein it is taken, in pain to be fined, and to make recompence to the party grieved: none shall take an unreasonable distress, in pain of amerciament.

Westm. 1. 16. 3. E. 1. None shall drive a distress out of the County, or distrain wrongfully upon the penalties provided by the Statute of *Marlebr.*

Westm 2. 36. 13. E. 1. None shall procure any to distrain another to make him appear at the county court or any other inferiour court, on purpose to vex him,

and

and put him to charge and trouble, in pain to make fine to the King, and to pay the party grieved treble damages.

Weſtm. 2. 37. 13. E. 1. No diſtreſſe ſhall be taken but by Bailiffs known and ſworn, in pain to reſtore damages to the party grieved, and to be grievouſly puniſhed by the King.

Artic. Cler. 9. 9. E. 2. Diſtreſſes ſhall not be taken in the High-way, nor in the ancient fees of the Church.

Stat. 1, 2. *P. M.* 12. No diſtreſſe of Cattell ſhall be driven out of the hundred, rape, wapentake, or lath, where it is taken, except to a pound *Overt* within the ſame Shire, not above three miles diſtant from the place, where it is ſo taken: Neither ſhall a diſtreſſe be impounded in ſeveral places, whereby the owner may be conſtrained to ſue ſeveral *Replevins* for the delivery thereof in pain to forfeit to the party grieved for every offence committed againſt the Act 5 l. and treble damages.

None ſhall take above 4 *d.* for the poundage of one whole diſtreſſe (and where leſſe is uſually taken, to take leſſe) in paine to forfeit it to the party grieved 5 l. and ſo much money, as is taken above 4 *d.*

Rule 24 *Quia emptores terrarum*, 18. E. 1. In all Feoffments to one and his heirs, the Feoffee ſhall hold his land, and the chief Lord of the fee by the ſame ſervices that the Feoffer held before.

Here, if the Feoffment be made of parcel, he ſhall hold of the chief Lord *pro particula*, according to the quantity of the land, and the Feoffor ſhall be ſet free for that part.

Rule 27. *Mag. Cart.* 31. 9. *H.* 3. If a Baronie, *&c.* Eſcheat to the King, the tenants that hold of the ſame (not having other lands that hold of the King in cheif) ſhall pay like relief, and do like ſervices to the King after ſuch Eſcheat, as they payd or did to their former Lords, and not otherwiſe. *Stat.*

Stat. 1. E. 6 4. So alſo it is, when a Seigniorie eſ-
eth to the King by attainder, conviction, outlawry
diſſolution or ſurrender.

Stat. 1. E. 3. *Stat.* 2. *Cap* 12. Lands holden of the Kin
in chief, and aliened without licence ſhall not be for-
feited, but a reaſonable fine ſhall be taken (of ſuch
lands ſo aliened) by due proceſſe in Chancery. And
cap. 13 lands holden of the King, as of ſome Honor ſha
not be taken into the Kings hands, as if they were
holden of the King in chief, as of his Crown.

Rule 31. *Stat.* 33. *H.* 8 22. A fee ſet down for re-
piting of Homage in the Exchequer or other Court

Rule 35. *Marlebr.* 9 52. *H.* 3. None enfeoffed by
deed ſhall be diſtrained to do ſuit to his Lords Court
unleſſe he be bound to do it by the form of his deed
or he or his anceſtors have uſed to do it, before the
Kings firſt voyage in *Brittain, being about* 39 *years and*
an halfe before the making of this Statute.

The eldeſt Coparcener ſhall only do ſuit of Court
and the other parceners ſhall be contributary: Alſo
one Jointenant or tenant in Common ſhall do the ſuit
and the reſt ſhall contribute.

Rule 38. *weſtm.* 35. Reaſonable aid ſhall be 20 s.
for a whole Knights fee, and as much for 20 l. land in
ſoccage; and ſo more or leſſe, according to that rate.

It ſhall be levied at 15 years age of the ſon, and 7
years of the daughter; and if the Father levy it, and
dye before the marriage of the daughter, the fathers
executors ſhall be charged therewith, and if they have
not affets, the heir ſhall be therewith charged.

Stat. 25 E. 3. *Stat.* 5. 11. Reaſonable aid to make
the Kings eldeſt ſon a Knight, and to marry his eldeſt
daughter ſhall be levied of all lands holden of the
King (without Mean) according to the rate in the for-
mer Statute.

Rule 43. *Marlbr.* 17. 52. *H.* 3. Guardian in ſoccage

shall make no waste, sale, or destruction of the heirs inheritance, but safely keep the same to the use of the heir, and when he comes to age shall answer the issues thereof by a lawful accompt, saving his reasonabl costs: neither shall such Guardian sell the marriage of such heir, but to his advantage.

Rule 48. *Magn. Cart.* 3 9. *H.* 3. The Lord shall take homage of the heir before he have the Wardship; and such heir, after he hath been in Ward, shall (at his full age of 21 yeares) have his inheritance without relief or fine; and if the heir within age be made a Knight, yet his land shall remain in ward, untill his full age aforesaid.

Marlebr. 6. 52. *H.* 3. If one enfeoffe his heir within age to cause the Lord to lose his Wardship, and die yet the Lord shall have the Wardship.

So when a fraudulent feoffment is made by a tenant upon condition to revert (after certain yeares) to him and his heirs, if the feoffees pay not a certain sum to the value, or more then the value of the lands; In such case the Lord shall have a writ *de Custodia reddenda:* And if (being able to aver this matter) he recover, yet the feoffees shall have the land again, when the heir comes to age; Howbeit, the Lord not being able to aver it, shall render the feoffees their costs and damages.

Stat. 32. *H.* 1. Two Jointenants or more holding of the King, and he that hath the fee dyeth, the King shal presently have the ward-ship and marriag of the body of his heir, if he be within age. Saving to every woman her dower of two parts of those lands, divided from the third part (as in that Statute is directed) and saving to the King during the wards minority, the reversion of such Jointenants, and tenants in dower.

Rule 50. *Merton,* 6. 20. *H.* 3. If any heir (14 yeares old, or above) marrie himself without licence of his

Lord

Lord to defraud him of the marriage, and the Lord ... him a convenient marraige without disparagement, ... Lord shall retain the land beyond the term of his ... age, untill he may receive the double value of the ... riage.

If a Lord marrie the heir within 14 yeares of ... whereby he is disparaged, he shall lose the Ward... and the profits of the lands shal (by the Wards friend... be converted to the Wards use.

Merton 20. *H.* 3. If an heir will not marry at ... request of the Lord, he shall pay to the lord as much ... his marraige is worth; for (of right) the marraige ... an heir within age pertaineth to the Lord.

West. 1. 22. 3. *E.* 1. The Lord may hold the land ... heirs female two yeares after their age of 14 with... which two years if he marrie them not, they shall ... quit without giving any thing for the wardship or ma... riage, and if they will not except a convenient mar... age tendred by the Lord, he shall hold the land ... their age of 21 yeares, and over, until he have take... the value of the marriage.

Stat 4. 5. *P. M.* 8. None shall take or convey, or ca... to be taken or conveyed away any maid or woma... child unmarried, being within the age of 16 yeares, ... of the custodie and against the will of the father ... mother of such childe, or of the person, to whom th... father of such child (by his last will, or other act in h... life time) hath appointed the governance of such chil... (except such taking shall be (without fraud) by or fr... the Master or Mist. is of such childe, or her Guardia... in Soccage or Chivalrie (in pain of two years imprison... ment with out Bail, or else to pay such fine, as shall be ... assessed by the Council in the Star-chamber.

None shall take away or deflower any such childe, ... against the will of her father, if he be living, or of he... mother (having the custody of her) if the Father ... dead

lead, contract matrimony with any ſuch Child, (except by the title of Wardſhip) in pain of five years imprisonment, or to pay a fine to be aſſeſſed by the ſayd Councill. The Fines are to be divided betwixt their Majeſties and the proſecutor.

The ſaid Council and Juſtices of Aſſize have power to hear and determine theſe offences.

If any ſuch child (above the age of 12. and under the age of 14) conſent to any ſuch contract of matrimony, the next of the kin to whom her inheritance ſhould come, ſhall enjoy it during her life? but after her deceaſe, it ſhall revert to the right inheritor, other then to him, that did ſo contract matrimony. This act ſhall not prejudice any cuſtome in *London*, or any other City or town concerning Orphans.

CHAP.

Rule 6. *Merton* 4 20. *H.* 3. Lords of waſtes, or commonable woods or paſtures may approve againſt their Tenants part thereof, ſo as they leave ſufficient Common beſides together with free ingreſſe and regreſſe to enjoy the ſame.

weſt. 2 46 13 *E.* 1. Such a Lord may approve in like ſort againſt his neighbours which have common appurtenance, and for a Windmil, Sheepcote, Dairy, enlarging of a Court or Courtilage none ſhall be grieved by Aſſize of novel diſſeiſin.

If a ditch or hedge made for that purpoſe be thrown down, and the parties offending be not diſcovered by the Townes adjacent, they ſhall make it up again, and render damages.

Stat. 3. *E.* 6. 3. Upon Iudgment for the Plaintiff in an Aſſize upon any branch of the ſaid Statutes of *Merton* and *weſtm.* 2. the Court ſhall award treble damages

This

This Statute ſhall not extend to houſes built before the making thereof, not having above three acres laid to them, nor to a Garden, Orchard, or Pond, not exceeding two acres.

Stat. 43. El. 11. All contracts made betwixt Lords and Commoners of waſts, *&c.* ſubject to ſurrounding ſhall be good, ſave where the Queen, *&c.* hath an Intereſt. This Act ſhall not be prejudicial to Lords and Commoners in any part of waſts, not aſſigned to Drainers, *&c.* nor to any Port or Haven.

CHAP. 9.

Rule 3 *Stat.* 19 *H.* 7. 15. Upon a feoffment made to the uſe of a Villein, the Lord may enter into the land it ſelf.

Rule 7. *Stat.* 9. *R* 2. 2. In a ſuit by a Villein againſt his Lord, the Lord ſhall not be barred of their Villeins, becauſe of their anſwer in Law.

Rule 11. E. 61. 6. 16. No office or deputation thereof, or of any part thereof, which concerneth the adminiſtration or execution of Juſtice, or the receit, controlement, or payment of the Kings money, or revenue, or any accompt, Aulnage, Auditorſhip, or Surveying of the Kings Lands, or Cuſtomes, or Adminiſtration, or Attendance in any Cuſtome-houſe, or keeping of any of the Kings Towns, Caſtles, or Fortreſs (being places of ſtrength or defence) or any Clerkſhip in a Court of Record, ſhall be bargained or ſold, or any reward, or agreement of Reward taken for it upon paine that the ſeller, *&c.* ſhall forfeit all his Intereſt in ſuch office or deputation, *&c.* and the buyer be a diſabled perſon to enjoy the ſame. And all bonds, *&c.* to be void, as againſt him, by whom they are made. Howbeit, all Acts executed by any ſuch perſon offending before he be removed from his Office, *&c.* ſhall remain good. This

This ſtatute extendeth not to any Office of Inheritance, or to any parkerſhip, or to any offices to be given by the Chief Juſtices of the Kings Bench or Common place, or by any Iuſtices of Aſſize.

CHAP. 10

Rule 2. *Stat.* 27. *H.* 8 24. No ſubject ſhall have authority to pardon any felony, or any acceſſories to felony, or any outlawry for ſuch offences. Nor to make any juſtices of Eyre, Aſſize, Peace, or Gaole-delivery: All originall Writs, Indictments of trealon, felonie, tre paſſe, and proceſſe upon the ſame ſhall be only in the Kings name, and the *Teſte* in his name, that hath the Franchiſe.

Every Writ and Indictment, whereby any thing is ſuppoſed to be done againſt the peace, ſhall be ſuppoſed to be done againſt the Kings peace onely, and not againſt the peace of any ſubject the King ſhall have all fines, iſſues, amerciaments, and forfeitures loſt by any Officers of Franchiſes for non-execution, or inſufficient returnes of proceſſe, or for any miſdemeanour concerning their office, with many proviſoes in the ſame Statute.

CHAP. 11.

Rule 4 W *Eſtm.* 2. 23. 13. *E.* 1. Executors ſhall have a Writ of accompt, and the action and proceſſe in the ſame writ, as their teſtator ſhould, if he had lived.

Stat. 4 E. 3. 7. 1. Executors ſhal have an action for a treſpaſs done to their teſtator, as of his goods and chattels carried away in his life, and recover their damages in like manner, as he, whoſe executors they are, might have done: if he had lived.

Stat. 32. *H.* 8. 1. He that hath lands, tenements, or hereditaments in ſoccage, and none holden by knight-ſervice, or ſoccage in chief, may deviſe all by his will in writing, or give all by act executed in his life; ſo may he that hath land holden by ſoccage in cheif, and other land holden of a common perſon by ſoccage, and none holden by Knight-ſervice: ſaving to the King *primer ſeiſin*, relief, ſuing of the ſame out of the Kings hands, fines for alienation, &c. and all other duties for the ſoccage in chief, as before hath been accuſtomed.

He that hath lands, &c. holden by Knight ſervice (whether he have any other lands holden of the King or of any other perſon by Knight-ſervice, or otherwiſe, or not) may do the like for two parts in three to be divided in certainty, for the advancement of his wife or children, and payment of his debts: ſaving unto the King the wardſhip or *primer ſeiſin* of the third part (without any charge, dower, &c.) and finds for alienation.

He that hath lands, &c. holden by knight-ſervice (whether of the king alone by knight-ſervice, not in cheif, or of a common perſon, or ſom holden of the king, ſome of a common perſon) and other land in ſoccage, may deviſe by will, or give by act executed in his life, two parts of that holden by knight-ſervice, and all the ſoccage: ſaving to the Lord of the land holden by knight-ſervice the Wardſhip of a full third part thereof, without any charge, dower, &c.

Provided, that every one ſhall ſue his liverie, and pay his relief and heriot, as if this Act had never been made.

Stat. 34 35. *H.* 8 The former Statute ſhall be extended to enable deviſes, and other Acts onely of Land in Fee-ſimple.

And

And if the partie, that maketh the will or other Act be ſeized in Coparceneric, or in the common; it ſhal be good for ſo much, as in himſelfe of right is.

The wardſhip, relief, *primer ſeiſin*, &c. ſhall be of lands, that deſcend immediatly after the death of him that maketh the will or other act, as well in fee-tail as fee-ſimple; And the deviſe of two parts reſidue ſhall be good, though it be of all his fee-ſimples land: Such a will ſhall be good for two parts, (in case only where two may be deviſed) though it be made for the whole or more then two parts.

Such wils made by a *feme-covert*, infant under the age of 21 yeares Ideot, or one of *non-ſane* memorie ſhall not be good, See alſo ſome other things there for the explanation of the former Act of 32 *H* 8. 1.

Rule 10. *Stat.* 21. *H* 8 4 that part of the executors, which take upon them the charge of a will, may ſell the land deviſed by the Teſtator to be ſold, albeit the other part which refuſe, will not joyn with them.

Rule 11. *Stat* 25. *E* 3. *Stat* 5. 5. Executors of executors ſhall have actions of debt, accompt, and goods carried away of the firſt Teſtators, and Execution of Statute-Merchants recognizances made unto him; And ſhall alſo anſwer for Aſſets, as the firſt executors ſhould have done.

Rule 12. *Weſtm.* 2. 19. 13. *E.* 1. the Ordinarie ſhall ſatisfie debts, wherein the Inteſtate was bound, as executors ſhould,

Stat. 31. *E.* 3 11. the Ordinaries ſhall depute next friends of the Inteſtate to adminiſter his goods, who ſhall ſue and be ſued, and be accountable to the Ordinaries, as executors ſhould.

Stat. 21 *H.* 8. 5. Adminiſtration ſhall be commited to the widdow of the Inteſtate, or to the next of his blood, or to both, at the diſcretion of the Ordinary. The O-

dinary not doing his duty herein forfeiteth ten pounds

Stat. 43. El. 8. If any obtain goods of an Inteſtate by fraud (as by procuring adminiſtration to be granted to a ſtranger of mean eſtate, or not to be found) and no upon valuable conſideration, &c. he ſhall be charged as executor in his own wrong as far as the goods or debts extend.

Rule 20. *Weſtm.* 1. 4. 3. E. 1. Where a man, dog, or cat, eſcape alive out of the Ship, it ſhall be no wreck; but the things ſhall be priſed by the Sheriff or Coroner and delivered to thoſe of the Town, where they be found, to anſwer for them: So as if any within a year and a day prove, that the goods are his, they ſhall be reſtored to him.

CHAP. 13.

Rule 3. *Stat.* 32. H. 8 28. Leaſes made by tenant in tail, or by him, who is ſeiſed in the right of his wife or Church (they being of full age at the time of ſuch a leaſe made) ſhal be good againſt the Leſſors, their wives, heirs, and ſucceſſors.

This Statute ſhal not extend to any leaſe to be made of lands in the hands of any Farmer by force of any old leaſe, unleſſe ſuch an old leaſe expired within a year after the making of the new; nor to any grant to be made of any reverſion of ſuch lands, nor to any leaſe of lands, which have been let to Farm 20 years before ſuch leaſe made; nor to any leaſe made without impeachment for waſte; nor for above 21 years, or three lives from the making thereof; and that upon every ſuch leaſe there be reſerved ſo much yearly rent, as hath bin uſually paid within 20 years before ſuch leaſe made: And the reverſioner of ſuch lands, &c. may (after the death of ſuch leſſor, or his heirs) have ſuch remedie againſt

againſt ſuch leſſee, his executors and aſſignes, as ſuch leſſor might have had againſt ſuch leſſee.

Provided, that all leaſes made by the husband of land, &c. (being the inheritance of the wife) ſhall be made by Indenture in the name of the husband and wife, and ſhe to ſeal to the ſame, and the rent ſhall be reſerved to the husband and wife, and the heires of the wife. And here, the husband ſhall not alien or diſcharge the rent, or any part thereof longer then during the coverture, unleſſe it be by fine leived by husband and wife.

No fine, feoffment, or other act, done by the husband only, of the inheritance or free-hold of the wife ſhall make any diſcontinuance, or prejudice the wife or any other, who is to enjoy the eſtate after her deceaſe, fines leived by the husband and wife onely excepted.

Stat. 1. El. *not printed.* All eſtates made by any Arch-Biſhop, or Biſhop of any mannors, Lands, &c. parcel of their Biſhoprick, other then to the Queen, &c. and other then for 21 years and three lives from the time of ſuch eſtate made; and whereupon the accuſtomed yearly rent or more ſhall be reſerved, ſhall be void.

Stat. 13. El. 10. All leaſes, conveyances, and eſtates made by any maſter and Fellowes of a Colledge Dean and Chapter, Guardian of an hoſpital, Parſon, Vicar, or other having any eccleſiaſtical living &c. other then for 21 years, or three lives from the making, and whereupon the accuſtomed yearly rent or more is reſerved, ſhall be void.

Stat. 14. El. 11. The branch of the Statute of 13. El. 10. made to avoid certain Leaſes, ſhall not extend to houſes ſcituate in Corporations, or Market-townes. or the Suburbs thereof, nor to the grounds of ſuch houſes, ſo as they be not the dwelling houſes of the perſons there reſtrained, nor have 10 acres of ground belonging

to them. Provided, that no leaſes in reverſion ſhal be made of ſuch houſes, nor without reſerving the accuſtomed yearly rent at leaſt, nor without charging the leſſee with reparations, nor for a longer term then 40 years: Neither ſhall any ſuch houſes be aliened without purchaſing preſently after other lands in Fee-ſimple of as good value.

Stat. 18. *El.* 11. All leaſes made by ſuch perſons, as are mentioned in 13. *El.* 10. where another leaſe is in being, not to be expired, ſurrendred, or ended within three yeares next after the making of ſuch new leaſe, ſhall be void: And all Bonds & Covenants for renewing of any ſuch leaſe contrary to this Act, or to the ſaid *Stat.* of 13 *El.* 10. ſhall alſo be void.

Rule 21. *weſtm.* 2. 5. 13. *E.* 1. Uſurpation of Churches during wardſhip, particular eſtates, Coverture, or Vacanci, ſhall not bar the heir at full age, the reverſioner or remainder in poſſeſſion, the feme-diſcovert, or the ſpiritual perſon in ſucceſion, from having their writ of Advowſon poſſeſſory, *viz.* a *quare impedit*, or an Aſſize of Darrein preſentment, as their anceſtor, or predeceſtor might have had, uſurpation had happened in their time; whereas before this Act they were (in ſuch caſes) put to their writ of right of Advowſon.

One and the ſame form of pleading ſhall be uſed in *Darrein preſentment*, and *Quare impedit*, *viz.* if the defendant alledged plenartie of his own preſenation, the plea ſhall not ſtay by reaſon of the plenartie, ſo as the writ be purchaſed within the ſix moneths; albeit he cannot recover within that time.

Where partition is made upon record, or by fine to preſent by turn, the Coparcener, that is diſturbed ſhall not be put to a *Quare impedit*, but may have remedy upon the Roll or fine by *Scire facias*: And amongſt Coparceners, if one preſent twice together, yet ſhall

not

not the other barred, but have his other turn when it falleth.

CHAP. 14.

Rule 4. *Weſtm.* 2. 34. 13. *E.* 1. If a man raviſhed woman married, maid, or other, albeit ſhe did conſent after, he ſhall have judgment of life and member, and here the King ſhall have the ſuit.

Stat. 6. *R.* 2. 6. Both the raviſher and raviſhed (where ſhe conſents after the fact) are diſabled to have or chalenge any inheritance, dower, or joint-eſtate after the death of their husband or anceſtor.

In an appeal of Rape, the Hûsband, father, or next of the blood ſhall have the ſuit, and the Defendant ſhal not be received to wage Battail.

CHAP. 15.

Rule 2. *Weſtm.* 1. 33. 3. *E.* 1. he that publiſheth any falſe news or tales, whereby diſcord or occaſion of diſcord & ſlander may grow betwen the King & his people, or the Nobles, ſhall be kept in priſon, untill he hath brought him forth into the Court, that did ſpeak the ſame.

Stat. 12. *R.* 2. 11. The like for him that telleth falſe lies of nobles and great officers, whereby diſcord may ariſe between the Lords and Commons.

Stat. 12. *R.* 2. 11. in the caſe of theſe former Statutes if the party cannot bring forth him, that ſpeak the ſame, he ſhall be puniſhed by the aduiſe of the Council.

CHAP. 19

Rule 4. 31. *E.* 3. *Stat.* 1. 2. If any man or Town, charged

ged with the goods of fugitives or felons will (in discharge of himself) alledge another, that is chargeable therewith, he or they shall be heard, and right shall be done him.

Stat. 1. *R.* 3. 3 None shall seize the goods of any arrested for suspition of felonie before he be convict or attaint thereof, or the same goods be otherwise lawfully forfeited, in pain to forfeit to the party grieved double the value of the goods so taken to be recovered by action of debt, &c.

Rule 6. 1. E. 6. 12. The wife shall be endowed, albeit her husband were attainted, convicted, or outlawed for treason or felonie, saving the right of others. *But note, that this is altered for treason*, by 5. *E.* 6. 12.

Rule 13 *Magn. Cart.* 22, 9 H. 3. The King shall have the land by a year and a day, and then render it to the Lord of the fee,

Prærog. Reg. 16. 17. E 2. The King shall have the profits by a year and a day, and also the wasting of the tenements by pulling down houses, cutting down woods, digging up meadowes, &c.

Rule 18. *Stat.* 21. H. 8. 7. (made perpetual by 5, *El.* 10.) the servant that hath any goods or chattels delivered unto him to keep by his master, and (with an intent to steal) doth either go away therewith, or (being in service) imbeziles or converts the same to his own use, shall be judged a thief, if the value of the goods amount to 40*s*. Howbeit, this extendeth not to apprentices or persons within eight years of age.

Rule 21. *Stat.* 21. H. 8. 11. where a felon robbeth or taketh the money or goods of any, and is thereof found guilty, or otherwise attainted upon evidence given by the party himselfe, or others by his procurment; in this case, the justices of *G. D.* or other justices, before whom he is so found guilty or attainted, have power to award a writ

a writ of reſtitution for the mony or goods ſo robbed or taken, in like manner, as if the felon were attainted at the ſuit of the partie in an appeal.

Rule 23. *Stat. de Malefact. in parcis*, 21.E.1. It is no felony for Foreſters, &c. to kill miſdoers, &c. If they will not ſubmit themſelves.

Rule 25. *Gloceſter* 9.6.E.1. He that killeth a man by miſadventure, or *ſe defendendo* muſt put himſelfe upon the Country; and if he be found to have done it ſo, the King (if he pleaſe) may pardon him.

Marlbr. 25.52.H.3. To kill a man by miſadventure ſhall be no murder.

CHAP. 21.

Rule 3. *Stat. de proditionibus* 25.E.3 *Stat.*5.s. It is high treaſon to kill the Chancellor, Treaſurer, &c. *as in the ſecond Rule of this Chapter.* Alſo to counterfeit currant money: To bring falſe money into this Realm conterfeit according to the money of *England* (knowing the ſame falſe) to merchandize or make payment with it. To counterfeit the great Seal or privy ſeal.

*Stat.*1.*Mar.* Seſſ.1.6 Seal-manuel, privie ſignet, or privy ſeal, ſtrange coine currant in this Realm.

*Stat.*1.2.*P.M.* 11. To bring wittingly falſe forein coine hether, to the intent to utter it within the Realm

Stat. 5.El.11. To clip, waſh, round, or file any money of this Realm, or currant here: Howbeit, this cauſeth forfeiture of land for life onely; but no leſſe of Dower or blood corrupted.

*Satt.*18, El.1. To impair, diminiſh falſifie, ſcal, or lighten any money by any art, wayes, or means whatſoever.

*Stat.*1.El.1.&6.*Stat.*13.El.1. Treaſon, to advance the Popes authority, &c.

Stat

*Stat.*33.*H.*8.20. Attainder of high treaſon by the courſe of the common Law, or Statutes of this Realm, ſhall be of as great force, as an attainder by Parlament: And the King ſhall have the real poſſeſſion of every thing forfeited without inquiſition or office: ſaving to ſtrangers, &c.

*Stat.*29.*El.*1. No record of attainder of treaſon ſhall be reverſed, where the partie attainted is executed for the ſame offence.

*Stat.*20.*H.*10. and 5.6.*E.*6.11. Any offence (made treaſon hertofore) committed out of the limits of the Realm, ſhall be inquired here by commiſſion, and like proces uſed, as if it he had been don within the Realm: One Reſiant out of the limits of the Realm may be outlawed for high Treaſon: An eſtate Tail ſhall be forfeit for high Treaſon.

CAAP. 22.

Rule 2.36.E.3.15. All pleas which be pleaded in any of the Kings Courts &c. or in the Courts of other Lords ſhall be pleaded, ſhewed, and defended, anſwered, debated, and judged in the engliſh tongue and entred and enrolled in Latine.

Rule 7.14.E.3.6. No proceſſe ſhall be annulled, or diſcontinued by the Clerks miſtaking in writing one ſilable or letter too little or too much, but ſhall be ſpeedily amended without any advantage to the other.

*Stat.*9H.5.4. The juſtices before whom ſuch pleas or records be made, or ſhall be depending, may make ſuch amendment as well after judgment, as before ſo long as ſuch record or proceſſe ſhall continue before them. *Stat* 4.H.6.3. The Statute of 9.H.5.4. is made perpetuall: provided it ſhall not extend to records or proceſſes

ceſſes in *Wales*, or whereby any perſon is outlawed.

Stat. 8. *H.* 6. 12. No judgment or record ſhall be reverſed or annulled for error aſſigned by reaſon of the raiſing or interlining of any record, proceſſe, warrant writ, pannel, or return, or any addition, ſubtraction, or diminution of words, letters, titles, or parcel of letters found in the ſame.

The Judges may reform all defects in any record, proceſſe, word, plea, warrant, writ, pannel, or return (except appeals, indictments of treaſon, or felonie, and the outlawries of the ſame, and the ſubſtance of the proper names, ſirnames, and addition, left out in original writs, exigents, and in other writs of Proclamation, contrary to the ſtatute of 1 *H.* 5. 5.) ſo as by ſuch miſpriſion of the Clerk no Judgment ſhall be reverſed or annulled. Variance alledged betwen a Record and the Certificat thereof ſhall be amended by the Judges.

Stat. 8 *H.* 6. 15. The Juſtices may amend the miſpriſions and defaults of Clerks of the Court, or of Sheriffes and their Clerkes, and of all other Officers whatſoever, found before them in any record or proceſſe, or the return of the ſame, by reaſon of writing one letter or ſyllable too much or too little, except in records and proceſſes within *Wales*, and of felonies and treaſons, and the dependances of the ſame.

Stat. 27. *El* 5 After demurrer joyned and entred, the ſame Court amended all imperfections, defects, and wants of forme, other then thoſe onely, which the party demurring ſhall particularly expreſſe in his demurrer. Howbeit, his Act ſhall not extend to the proceedings in an apeal of fellony or murder, or upon an Indictment preſentment, or penal Statute.

Rule 8. *weſtm.* 2. 39. 13. *E.* 1. Damages given againſt the Sheriff, if he return not at all, or return a *tarde*, upon writs delivered, or offered to be delivered him by bill:

bill: ſo upon returning a *Mandavi Baljvo libertatis* falſly: Upon any reſiſtance of any great man to execute the Kings precepts, the Sheriffe ſhall take the *Poſſe comitatus*, and ſee it ſerved: *See* 2 E. 3. 5.

The Stat. of York 5. 12, E. 2. Bailiffes of Franchiſes muſt deliver their returnes of writs to the Sheriffs by Indenture, and if he change the return, the Lord of the Liberty, and the party ſhall recover double damages: Sheriffs and Bailiffs ſhall ſet their proper names to all returnes.

Stat. 27. El. 12 Every Under-Sheriff, Bailiff of Franchiſe, Deputy, Clerk of the Sheriffe, &c. muſt take the oath of Supremacie, and another oath for the true ſpeedy and indifferent returning of writs, and impanelling of Jurors, without taking above the fees allowed.

Stat. 29. El 4. No Sheriffs, Under-Sheriffe, Baliffe of a libertie, or any of their Deputies ſhall either directly or indirectly take more for ſerving an extent or execution, then after the rate of 12*d.* for every pound under 100*l.* and 6*d.* for every pound above 100*l.* of what they ſhall ſo levie, in pain to forfeit treble damages to the party grieved, and beſides 40*l.* to be divided betwixt the Queen and the proſecutor.

Rule 11. *Stat.* 1. *E* 34. *Stat.* 1. Averment given in a writ of falſe judgment againſt the record certified,

Rule 26. trinity Term ſhal begin the monday after Trinity Sunday for keeping of Eſſoines, proffers, returnes, &c. the full term ſhall begin the Friday after *Corpus Chriſti* day, and have four returnes onely, *Craſtino Trin. Octabis Trin. Quindena Trin.* and *Tres Trin.* the reſt are cut off: alſo by a late Act the two firſt Returnes of *Michaelmas* Term are abridged.

Rule 37. 18. *H.* 6. 1. The Kings Letters Patents muſt bear date the day of the delivery of the warrant to the Chancellor, and not before, otherwiſe they are void.

Stat

Stat. 3. 4. E. 6. 4 Every one that hath any Intreſt in any land or office by or under authority of the Kings Letters Patents (made after the fourth of *February* 27. H. 8.) may make his title, plea, avowrie, &c. as well againſt the King as any other by an exemplification (or *Conſtat*) under the great Seal.

Stat 13. El. 6. So likewiſe of the Patentees of *H.* 2. *E.* 6. *Qu M.P.&M.* and *Qu. Eliz.* and all claiming under them.

Rule 49. *Stat.* 14. *E.* 3. 8. Eſcheators ſhall not continue in their office above a year.

Rule 51. *Mag. Cart.* 35. The Sheriffe ſhall make his turn throughout the Hundred but twice a year *viz.* once after *Eaſter*, and once after *Michaelmas*: And the view of Frank pledge ſhall alſo be made at the turn of *Michaelmas*.

Stat. 31. *E.* 3. *Stat.* 1. 15. Every Sheriffe ſhall hold his turn yearly, one time within the month after *Eaſter*, and another time within the month after *Michaelmas*, in pain to loſe his turn for the time.

Stat. 1. E. 3, *Stat.* 1. 17. Indictments in Sheriffs turns muſt be by rolls indented, one part thereof to remain, with the Endictors, the other with the Sheriff.

Stat. 1. E. 4. 2. upon Indictments and preſentments taken before Sheriffs, or their Miniſters at their turns or Law-dayes, they ſhall not attach, arreſt, or impriſon, nor levie any fine or amerciament of any perſon ſo indicted (or preſented) but deliver the ſame Indictments or preſentments to the Juſtice of peace of the ſame County, at their next Seſſions who ſhall proceed hereupon, as if they were taken before them.

Stat. 1. *R* 3. 4. None ſhal be returned upon a pannel of inquirie for the Sheriffs Turn, but men of good name and fame, having within the ſame County Freehold land to the yearly value of 10 s. or Copihold land

to

to the yearly value of 26*s*.8 *d*. and every Indictment otherwiſe taken ſhall be void.

Rule 55. *Weſtm.* 1.10.3.*E*.1. Coroners ſhall be choſen in all counties of the moſt wiſe & diſcreet Knights Sheriffes ſhal have Counterparts with the Coroners of all things, which concern their office: they ſhall take nothing of any man to do their office, in pain of great forfeiture to the King.

Stat.14.E.3.*Stat*.1.8 A coroner ſhal have ſufficient in the County, whereof to anſwer all people.

Stat.28.E.3.6. Coroners ſhall be choſen in the full Counties of the moſt convenient and lawfull men, giving unto the King and other Lords (that may make Coroners) their Franchiſes.

Stat.1.*H*.8.7. where one is ſlain by miſadventure, the Coroner ſhall execute his office without fee, in pain of 40 *s*. Juſtices of *Aſſize* and Peace have power to enquire of and puniſh the defaults and extortions of Coroners.

Rule 57. *Artic. ſuper Cart*. 3.28.E.1. They ſhall not hold plea of any contracts or covenants, but ſuch as one of the Kings houſe maketh with another of the ſame houſe: Nor of any treſpaſſe, unleſſe the party were attached, and the plea determined before the Kings departure from the place, where the treſpaſſe was committed, Any thing attempted here againſt is void: Pleas of felonie (that cannot be determined before the Steward, becauſe the felons cannot be attached, or for other like cauſe) ſhall be refered to the Common Law.

Stat.5 *E*.3.2.*&* 10 E.3.*Stat* 2.2. Inqueſts ſhal be taken by the men of the country about, & by none of the Kings houſe, except it be in Covenants, contracts, & treſpaſſes, when either party is of the Kings houſe. *Stat*.13.*R*.2. *Stat*.1.3. the juriſdiction of the Stew-

ard

ard and Marſhall of the Kings houſe ſhall extend no further then twelve miles from the Kings Lodging.

Stat 15.*H*.6.1. The defendants may averre, that themſelves and the Plaintiffe (at the time of the Suit commenced) were not of the Kings houſe againſt the Record.

Stat. 33.*H*.8.12. The Lord Steward of the Kings houſe alone, or (in his abſence) the Treaſurer and controller of the kings houſe with the Steward of the marſhalſie or two of them (whereof the Steward of the Marſhallſie to be one) may without Commiſſion hear and determine all Trealons, Murders, Man ſlaughters and blood-ſhed, within the kings houſe, although the king be removed before: the inquiring and verdict muſt be by the Kings houſhold ſervants in the Check-roll: No Clergie or Sanctuary is given to any, found guilty before them.

Rule 60.17.*E*.4.2. *made perpetuall* 1 *R*- 2.6. No Plea ſhall be holden in Court of Pipowders, unleſſe the Plaintiffe or his Attorney ſwear, that the matter of the declaration was done in the time of the ſame fair, and within the Juriſdiction thereof, but that oath ſhall be no concluſion to the defendant, but that he may plead as he might before: Every Steward holding plea otherwiſe, forfiteth 5 *l*.

CHAP. 23.

Rule 2. *Glocester* 8.6.*E*.1. Attorneys may be made in all pleas, where appeales lie not.

Merton 10. 20. *H*. 3. In ſuits at the County Court, Hundred, Weapontake, or Lords court. *weſtm*.2.10.13.*E*.1. An Attorney may be made in all Counties, where juſtices do journey. and *Stat*.3.*H*.7.1. An appeal of death may be purſued by Attorney.

weſtm.

*Weſtm.*1.25.3. E.1.*Weſtm.*2.49.13.E.1.and *Artic. ſuper Cart.*11.28.E.1.there ſhall be no maintenance in ſuits.

*Stat.*32.H.8.9. None ſhall buy, ſell, or get or take promiſe, or grant to have any pretenced rights or titles to lands, except the ſeller, or thoſe, by whom he claimeth were in poſſeſſion, or tooke the profits, by the ſpace of a year next before upon pain that the ſeller, &c. ſhall forfeit the value of the land, and likewiſe the buyer, knowing the ſame, provided, he that is in lawfull poſſeſſion by taking the yearly profits, may buy, &c. anothers pretenced right, &c.

Rule.7. *Stat.6.R.2.2.* Debt, accompt, and all ſuch actions ſhall be brought in the County where the contract, &c. was made.

Rule 16. *Stat.*1.E.6.7. The Acceptance of a new name of dignity ſhall not abate the writ.

CHAP. 24.

Rule 6. *Merton* 8. 20.H.3. Seiſin of ones Anceſtor in a writ of right ſhall be from the time of H 2.

In a Mortdanceſter, writ of Nief, and of entry, from the laſt return of King *John* out of *Ireland.*

In an Aſſize of *novel diſſeiſin*, from *Henry* 3. his firſt paſſage into *Gaſcogne.*

*weſt.*1.38.3.E 1. Seiſin of ones anceſtor in a writ of right ſhall be from the time of *Richard* the firſt.

In an Aſſize of *novel diſſeiſin*, and *Nuper obiit*, from H 3. his firſt paſſage into *Gaſcoigne.*

In a Mortdanceſter Coſinage, Aywel, entry and writ of Nieſe, from H 3. his Coronation.

*Stat.*32.H.8.2. Seiſin in a writ of right, ſhall be within 60 yeares.

In a Mortdanceſter, or any other poſſeſſory action (upon the poſſeſſion of his anceſtor or predeceſſor) ſhall be within 50 yeares.

A

A writ of the poſſeſſion of the Plaintiff himſelfe ſhall be within 30 years.

An avowry or cognizance, for rent, ſuit, or ſervices of the ſeiſin of his Anceſtor, or of his own, ſhall be within 40 years.

Formedons in reverter or remainder, and *Scire facias* upon fines ſhall be ſued within 50 years, after the title or cauſe of action accrued

Stat. 1 *M.* 1 *Parl.* 2. *ſeſs* 5. The ſtatute of 32 *H.* 8. 2. ſhall not extend to a writ of right of advowſon, *Quare impedit*, Aſſize of *Darrein* preſentment, *Jure patronatus*, writ of right of ward, writ of raviſhment of ward nor to the ſeiſer of the wards body or Eſtate: but the time of the ſeiſin to be alleadged in ſuch caſes ſhall be as it was in the Common Law, before the making of the ſayd ſtatute.

Stat 21. *Jac.* 2. The time of preſcription for lands concealed from the King is ſixty years before the making of that ſtatute

Stat. 1. *Jac*, 16. In writs of Formedon in deſcender, remainder and reverter, and right of entry, the time is 20 years after accruer, and imperfections removed.

Rule 6. *Stat.* 25 *E.* 3 *ſat* 5. 16. Non-tenure ſhall not abate the writ, but only for the quantity.

Stat. 37 *E.* 3. 17. No writ ſhall be abated by acknowledgment of villeinage, if the demandant or Plaintiffe will averr, that he that alleadgeth the exception was freed the day of the Writ purchaſed.

CHAP. 26.

Rule 4. WEſtm. 2. 2 13 E. 1. A *Cui in vita* given to the wife after her husbands death, upon his looſing of the land by default, and the Tenant that recovered againſt the husband muſt maintain his own right.

CHAP. 27.

Rule 4. *Weſtm*, 2 20. In a Writ of Coſinage Ayel, and Beſayel, the point ſhall be inquired, whether the demandant be next heir, as well as in a Mortdanceſtor.

Rule 10. *Weſtm.* 2. 1. 13. E. 1. A formedon in *Deſcender* is alſo given by this Statute to the heir in tail upon a deſcent from his Anceſtor dying ſeiſed of the eſtate tail.

Rule 12. *Merton* 1 20 H. 3. A woman deforced of her dower or *Quarentine*, ſhall (in a writ of Dower) recover damages, *viz.* the value of her Dower from her husbands death to the day of the recovery of her Dower, and the deforceor ſhall be amercied.

weſtm. 1. 48. 3. E. 1. A writ of Dower *unde nihil habet* ſhal not abate, though ſhe have received part of her Dower before the writ purchaſed, unleſſe it were of the ſame party, againſt whom the writ was brought, and in the ſame Town.

Weſtm 2. 4. 13 E. 1. In place of a writ of right a *Quod ei deforceat* is given to tenant in Dower for life, by the courteſie, in Frank-marriage, and in tail, upon loſing by default.

CHAP. 28.

Rule 2. *Marlebr.* 7 52. H. 3. In a writ *de communi Cuſtodia*, if the deforceor come not at the grand diſtreſſe, the writ ſhall be renewed as often as may be within half a year, and every time read and claimed in the county-court; and if he come not in to anſwer, nor the Sheriffe finde him within that halfe yeare, he ſhall loſe the Ward ſaving his

his action another time, if he have right.

Weſtm. 2. 35. 13. *E.* 1. In a writ of ward of land or heir, or both, either of the parties dying before the plea determined, a re-ſummons ſhall be; And in the grand diſtreſſe day muſt be given, that three County dayes may be held before the returne, in every of which Proclamation ſhall be made, whereupon if the defendant appear not, judgement ſhall be given for the plaintiff: ſaving the right of the defendant, if afterwards he will claim it: So ſhall it be done alſo in a writ of ejectment of ward.

Rule 6. *Weſtm.* 2. 2. 13. E. 1. If the tenant diſclaim in the County-Court, or other Court not of Record the Lord may remove the plea before the Juſtices to cauſe it to be of Record; ſo as he may have a writ of right *ſur diſclaimer.*

Gloceſter 4. 6. *E.* 1. *& Explanat.* 4 When land is given in Fee-farme, rendering or doing ſo much as amounteth to the fourth part of the value of the land, if he (whoſe land is charged) let it lye freſh by two years, ſo as no diſtreſſe can be found in it, nor render or do that which is contained in the writing, the other ſhall recover the land by a *Ceſſavit*; but the tenant coming before, judgment if he render the arrerages and damages and finde ſufficient to do from thenceforth that which is contained in the writing, ſhal retain his land. *weſtm.* 2. 21. 13. E. 1. If a man detain from his Lord his ſervice due, by two years, the Lord ſhall recover the land by a *Ceſſavit*: This lyeth alſo for the Lords heir, againſt the tenant, his heirs and Alienee.

Weſtm. 2 41. If religious houſes, that have land given; &c. withdraw the Almes, &c. by two years, the donor ſhall have the like action.

CHAP. 29.

Rule 7. *Marlbr.* 9. 52. H. 3 The proceſſe in a *Scita ad molendinum* is attachment, *venire facias*, and the grand diſtreſſe: *ſee alſo there the order of proceeding in that action.*

Rule 9. *Stat.* 25. E. 3 *Stat.* 3 3 tht Kings Collation to a benefice (being found before Judgment to be untrue) ſhall be repealed.

Marlbr. 12. 52. H. the proceſſe in a *Quare impedit* ſhall be Summons, Attachment, and Grand diſtreſſe.

Weſtm. 5. 13. E. 1. A Coparcener being diſturbed (after Partition) ſhall have a *Scire facias*, and ſhall not be put to a *Quare impedit.*

If tenant in Dower, or by the courteſie have preſented, the reverſioner being diſturbed ſhall have a *Quare impedit*, or *Darrein* preſentment at his pleaſure.

Rule 15. *weſtm.* 2. 9. The *Meſne* not coming in to acquit the tenant loſeth the ſervice, and the tenant ſhal have like remedy againſt the lord for exaction, as the *Meſne* might have had: And there ſee the proceſſe and proceeding to be uſed againſt the *Meſne.*

Rule 21. *Stat. de finibus* 18. E. 1 *Stat.* 4. After the writ original is delivered in the preſence of the parties before the Juſtices, the Pleader ſhall ſay, Sir Juſtice *Conge d' accorder*, then the Juſtice ſhall ſay what ſaith Sir *R*; And when the Kings fine is agreed for; and the peace cried, the Pleader ſhall declare the ſubſtance of the fine: the parties ought to be of full age, of *ſane memorie*, and out of priſon: A *feme-covert* muſt be examined before four Juſtices, and without her conſent the fine cannot be leived.

Stat. de finibus levatis, It ſhall be no good exception, that before and at the time of the fine leived the demandant

mandant or his anceſtors were ſeiſed of the land contained in the fine, or of ſome part thereof: Fines ſhall be openly read at two certain dayes in the week by the diſcretion of the Juſtices, and in the meane time all pleas ſhall ceaſe.

Sta. 5.H.4.13: Every writ of Covenant, All other whereupon Fines are levyed, the *dedimus poteſtatem*, and all knowledges of theſame, before they be drawn out of the Common Bench by the *Chirographer*, ſhall be inrolled in a Roll to be of Record for ever, out of which execution ſhall be had, if the Notes and Fines be imbeziled.

Stat, 23 *El.*3. Every writ of Covenant, or other writ, whereupon any fine is levyed, the Return thereof, the Concord, Note, and Foot of the Fine, the Proclamations, and the Queens ſilver, alſo every writ of Entry in the *poſt*, and other writ, whereupon any common recovery is ſuffered, writs of Summons *ad warrantizandum*, and the returne of all theſe writs, and every warrant of Attorney, may at any mans requeſt be inrolled, which Inrollment ſhall be of as great force to all purpoſes in law, as the things themſelves, if they were extant: No Fine, Proclamation, or common Recovery ſhall be reverſed by writ of Errour, by reaſon of falſe Latine, Razure; Interlining, miſ-entring of the warrant of Attorney, or of any Proclamation, or by reaſon of any other defect of form in words, and not in matter of ſubſtance.

Rule 22. *Stat.* 34.*E.*3.16. The plea of non claim of Fines ſhall be no barr hereafter.

Stat 4.*H.*7.24. Every fine after the ingroſſing ſhall be proclaimed in the Court the ſame Term, and the three next, four ſeverall dayes in every Term, all pleas ceaſing the whileſt: The Proclamations being ſo made, The fine ſhall conclude all privies & ſtrangers, except

women *Covert*, perſons within 21 years of age, in priſon, out of the Realm, or of *non-ſane* memory (being no parties to the Fine) ſo as they or their heirs take their action or lawfull entry within five yeares after thoſe imperfections removed: ſaving to all perſons and their heirs (other then parties) the right, claim, and intereſt, which they have at the time of the fine ſo as they purſue it by action or lawfull entry within five years next after the Proclamations; And ſaving to all other perſons ſuch right, title, claim and intereſt, as firſt ſhall grow, remain, or come to them after the Proclamations by force of any matter before the fine, ſo as they take their right according to the Law within five years, next after it ſo growes, &c. And thoſe, that be *Covert-baron*, &c. at the time when it groweth, that they or their heirs take their action or lawfull entry within five years after thoſe imperfections removed: ſaving alſo to all (not parties or privies) the exception, that none of the parties, or any to their uſe, had any thing in the lands at the time of the fine.

Stat. 1. *M. Parl.* 1.7. All Fines whereupon Proclamations be not or ſhall not be duly made (by reaſon of the adjournment of any term by writ) ſhall be as good as if any term had been holden from the beginning to the end, and proclamations therein made according to the Statute.

Stat. 32. El. 2. Proclamations of Fines ſhall be only four times, *viz.* once in the term, wherein the Fine is ingroſed, and once in every of the three termes next after.

CAAP. 30.

Rule 2. *Mag. Cart.* 12. 9. *H.* 3. Aſſiſes of Mortdanceſter and *novel-diſſeiſin* ſhall not be taken but in their proper County by the

the Juſtices of Aſſize, and if they cannot be determined there, they ſhall be determined by the ſame Juſtice in their Journy: Alſo difficult matters ſhall be referred to the Juſtices of the bench to be there determined

weſtm. 1. 24 3. E. 1 An Aſſize given againſt an Eſcheator, Sherif, or other Bailiffe of the King, that ſeiſeth any lands by colour of his office, without ſpecial warrant; and double damages to be recovered by the eſtte partie greieved.

Weſtm. 2. 25. 13. E. 1, An Aſſize of *novel diſſeiſin* ſhall lie for eſtovers of wood, profit to be taken in woods, a Corody, delivery of Corn, and other victuals and neceſſaries to be received yearly in a certain place, toll tronage, paſſage, Pontage, Pawnage, and the like to be taken in places certain, the keeping of Parks, Woods, Foreſts, Chaſes, Warrens, Gates, and other Bayliwicks, and Offices in fee; And in all theſe caſes the writ ſhall be, *de libero tenemento*: All an Aſſiſe is given for common of turbarie, fiſhing and ſuch like Commons appendant to a freehold, or without a freehold by ſpecial deed (at leaſt) for term of life.

If any holding for years or in ward alien in fee, remedie ſhall be had by an Aſſize, and both the feoffors and feoffees ſhal be had for diſſeiſors, ſo that during the life of any of them the ſaid writ ſhall hold place; but if they die the remedie ſhall be by writ of entry.

the giving of this writ in new caſes ſhal not diminiſh the force thereof in thoſe, wherein it had force before; and remedie alſo ſhall be had thereby, in caſe where on feedeth in the ſevrall of another.

In this ſuit, if the defendant fail to make good the exception, which he pleads, he ſhall be adjudged a diſſeiſor without taking the Aſſize, and ſhall give to the Plaintiffe double damages both inquired, and to be inquited; and beſides ſhall ſuffer a years Impriſonment

If ſuch an exception ſhall be alledged by a Bailiff the taking of the Aſſize ſhall not thereby delayed nor yet the judgement upon the reſtitution of the land and damages: Howbeit, if the Maſter of ſuch Bailiff afterwards offer to prove to the Court by matter of Record, that there was juſt exception, whereby the Plaintif might have been barred, he ſhall have a *venire facias*, to produce ſuch record, And then, if the Juſtices ſee cauſe, the plaintif ſhall be warned to appeare at a certain day, and the defendant ſhall then have again his ſeiſin and damages, and the plaintif ſhall be puniſhed by Impriſonment at the diſcretion of the Iuſtices: In like manner alſo ſhall the Iuſtices proceed, in caſe the defendants' proof is by deeds and releaſes; for if the plaintif purchaſed the Aſſize contrary to his own deed, he ſhall be puniſht, as aforeſaid.

Stat. 7. *R.* 1. 10. An Aſſize of *novel diſſeiſin* for rent iſſuing out of Lands in divers Counties ſhall be taken *in confinio comitatus*, as is uſed for Common of Paſture in one County, appendant to tenements in another.

Stat. 1. *H* 4. 8. A ſpeciall Aſsize is maintainable by the diſſeiſee for ſuch lands, as are granted by the King's patent, without title firſt found by inqueſt for the King, without ſuit to be made to the King in that behalfe; And if the pattentee pray in *Aide* of the King a *procedendo* ſhall alſo be granted without ſuit. Here if the Aſsize paſſe for the diſſeiſee, he ſhall recover treble damages againſt the patentee.

Stat. H. 4 8. If any make forcible entry into land by way of maintenance, the Chancellor of *England* ſhall grant a ſpecial Aſsize without ſuing to the King and if the diſſeiſor ſhall be attainted thereof, he ſhall ſuffer one whole yeares impriſonment, and reſtore double damages to the party grieved.

Stat. 21. *H.* 8. 3. The plaintif in Aſsize may abridge

his plaint of any part, whereunto a bar is pleaded without prejudice to the residue.

Merton 3.20. *H.*3. A man disseised recovering his seisin by Assize of *novel disseisin*, or confession of the party, and having the same delivered him by the Sherif, if he be again disseised of the same tenements by the same disseisor, he shall have a writ of redisseisin to command the Sherif (taking with him the Keeper of the pleas of the Crown, and other Knights) in proper person to go to the land, &c. and by the first Iurors or other lawfull men to make inquiry: Howbeit, this must not be without speciall commandment of the King: The *redisseisor* shall be imprisoned.

Merlbr. 8 52.*H.*3 And not delivered without special command of the King, and payment of a Fine.

westm. 2.8.13.*E.*1. Writs of *redisseisin* must be inrolled in the Chancery, and transcripts thereof shall be sent into the *Exchequer*.

westm. 2.26. A writ of *Redisseisin* shall lie for them that have recovered by default, reddition, or otherwise, without recognition of assizes or Iuries: The *redisseisor* shall answer double damages, and not be repleviable by common writ.

Rule 8. *westm.* 2.24.13.*E.*1. Giveth an assize of nusance against him, to whom the tenement is alienated after the nusance is made.

Stat. 6.*R.*2.3. The Plaintif, if he will, may have a writ of nusance in the nature of an Assise, determinable before the Iusticers, or before the Iustices of Assize.

Rule 9 *Magn. Cart.*12. *Vide supra*, *Rule* 2.

Marlb 16.52.*H.*3. If the Lord will not render unto the heir the land (when he comes to age) without plea, the heir shall recover his land by an Assize of Mortdancestor, together with all his damages.

west. 2.4.13,*E.*1. If a woman haveing no right, recover

ver Dower againſt a Guardian, the heir at full a ſhall have a Mortdanceſter againſt her.

Gloceſter 3. The heir ſhall have an Aſſize of Mor danceſter, if the tenant by couttesie alien, and lea no Aſſets.

Gloceſter 6. All the heirs, whereof one is Son Daughter, Brother, or Siſter, Nephew or Niec and the other in a further degree, ſhall joyne in Mortdanceſter.

Rule 10. *Mag. Cart.* 13. An Aſsize of *Darrein* pr ſentment ſhall be alwayes taken before the Iuſtices the Common place.

Rule 11. *Weſtm.* 2. 24 13. E. 1. A writ of *Juris utru* ſhall be granted, to try whether free almes belong t one Church or another, in caſe where they are tranſ ferred from one Church to another.

Rule 13. *Stat.* 31. *H.* 8 1. Iointenants and tenants in Common of an eſtate of Inheritance in their owne right or in the right of their wives in any Mannors, Land, &c. may be compelled to make partition by writ *de partitione facienda*, as Copareeners are compellable to do, and afterwards ſhall have aid to deraigne the Warranty paramount, and to recover *pro rata*, as Co parceners (after partition) ſhould.

Stat 32. *H* 8. 32. Iointenants and tenants in common, that hold for life or years amongſt themſelves, or with others, that have Inheritance or freehold in any Mannors, lands, &c. ſhall alſo be compelled to make partition by the ſaid writ to be purſued upon their caſe Howbeit, ſuch partition ſhall not be prejudicial to any but the parties, to ſuch partition their executors and aſſignes.

CHAP.

CHAP. 31.

Rule 3. *Stat. 9. E. 3. Stat. 1. 3.* In a writ of debt brought againſt divers executors, they ſhall have but one Eſſoine before appearance, and another after appearance, he or they that do firſt appeare in the Court at the grand diſtreſſe, ſhall anſwer to the Plaintiffe, and the plaintif (if it paſſe for him) ſhall have judgment and execution of the goods of the Teſtator againſt all named in the writ, as well as if they had all pleaded.

Rule 7. *Mag. Cart. 8. 9. H. 3.* The pledges ſhall be free ſo long as the principal debtor is ſufficient; And they anſwering the debt, ſhall have the lands and rents of the principall, untill they be ſatisfied: but *note, that this is meant of the Kings debtor.*

Stat. 1 R. 2. 12. No Warden of the Fleet ſhall ſuffer any priſoner in execution to go out of priſon by Mainprize, Bail, or *Baſton*, without making gree with the party, unleſſe by writ, or other commandement of the King, upon pain to loſe his Office, and the Creditor to have a writ of debt againſt him.

Stat. 23. H. 6. 10. Every Obligation taken by a Sheriff or his Miniſters by colour of their office of any perſon in their Ward by courſe of Law, ſhall be by the name of their office; and upon condition, that the priſoner appeared at the day and place mentioned in his Writ, Bill, or Warrant, an Obligation in any other forme taken is void.

Stat. 32. H. 8 37. The Executors and Adminiſtrators of him, that hath any rent or fee-farm in fee-ſimple, fee-tail, or for life, ſhall have an Action of debt for the arrerages in the Teſtators life time, againſt the tenants, that ſhould then have paid it, or may diſtreine (and

and make avowrie upon their matter) in the lands, long as they remaine in the poſſeſsion of the ſaid tenant,, or of any claiming onely from him.

A husband ſeiſed of any ſuch eſtate in any rent or fee-farm in his wives right, ſhall (after her death) himſelf (& alſo his executors, or adminiſtrators) have the ſame remedy for arrerages due in her life: So likewiſe of him, (his executors, or adminiſtrators) that hath a rent or fee-farme during anothers life, and *Ceſty qui vie* dye, the ſame being unpaid.

Rule 9. *Stat.* 13. *El.* 4. The lands, profits, and hereditaments of every Accomptant, or him that receiveth money for the Queen, or her ſucceſſors to be imployed to the uſe of the Queen, &c. ſhall be extended (in the nature of a Statute ſtaple) for the payment of the arrerages: Or the Queen, &c. if he do not ſatisfy within ſix moneths after the arrerages found, may ſell his land, and the party may have the ſurpluſſage to be delivered to him by him that received the money upon the ſale, without further warrant: This ſale to be of any land, whereof it is found by Inquiſition, that the Accomptant taketh the profits; with Inquiſition, if it be not true, after traverſe of the office, and that found for him, he ſhall have his land againe without any petition, livery, or *Ouſter le main*: Here, if any ſuch buy land with the Queens treaſure, and pay not the arrerages, as before; the Queen ſhall ſeize and retain the land, according to the rate that the party had it.

This Act extendeth not to ſuch officers as have uſed to diſburſe money immediatly after their accounts paſt, as the treaſurers of War, Gariſons, Navies, &c. unleſſe the Queen, &c. command preſent pay: Neither doth it extend to Accomptants, whoſe whole Receit exceedeth not 3000 *l.* not to Sheriffes, Eſcheators, or Bailiffes of Liberties.

The

The Queen, &c, being satisfied by sale of land, the sureties shall be discharged for so much, and if any remain yet unpaid, the sureties shall pay the residue rably according to their abilites.

Stat. 27. *El.* 3. the Queen &c. may make sale of the accomptants lands, &c. as wel after his death as in his life time, and as wellwhere the accompt was made, and the debt known within eight years after his death, as in his life time. Provided, that after the Accomptants death and before the lands. be sold; a *scire facias* shall be awarded to garnish the heir, to shew cause why the lands &c, should not be sold, &c. whereupon, if the heir upon such Garnishment or two *nihils* returned do not prove unto the Court, that the executors or administrators of the accomptant have sufficient, then ten moneths after such two *nihils* or garnishment returned, the lands &c. shall be sold, and disposed according to the *Stat.* of 13. *El.* 4 Nevertheless, the heirs sale *bona fide* and upon good consideration before the *scire facias* awarded, shall be good to him, that is not consenting to defraud the Queen, &c.

This Act shall extend to all Officers of Receipts and Accomp s to the Queen, and to none other ? The heirs lands, *&c.* shall not be sold during his minority but at any time within eight years after his ful age they shall be liable as aforesaid: If the Accomptant or debtor had a *Quie us est* in his life time, that shall discharge the heir of debt.

Stat. 7. *Ja.* 15 No debt shall be assigned to the King, *&c.* by any debtor or accomptant, other then such debts as did before grow due originally to the Kings debtor or Accomptant *bona fide*: All Grants and Assignments of debts to the King, *&c.* contrary to the true intent of this Act shall be void.

Rule 15. *Marlbr.* 23. 52. H. 3 Attachment given in an

an Action of Accompt againſt Bayliffs, that withdr themſelves, and have no lands or tenements to be ſtrained by.

Weſtm. 2. 11. 13. E. 1. He to whom the accompt is be made, may aſsign Auditors to take it who may im mediately commit to the next Gaole the Accomptan (being found in arrerages) till he fully ſatisfie: whe upon the Accomptant finding himſelf grieved, ma bring the matter by a *ſcire facias* before the Barons the Exchequer.

CHAP. 32.

Rule 22. *Weſtm.* 1-20 3. E. 1. Treſpaſſers in par and Ponds attainted at the ſuit of th party (beſides making large amends according to th treſpaſs and fine at the Kings pleaſure) ſhall hav three years impriſonment, and finde good ſurety no to commit the like treſpaſſe; And if he cannot finde ſurety, he ſhall abjure the Realm. Being a fugitive and having no lands or tenements, whereby to be juſtified, he ſhall be proclaimed from county to county; and (if he appear not) outlawed.

Stat. 5. *R.* 2. 7. None ſhall enter into lands or tenements by force, in pain of Impriſonment and ranſome at the the Kings pleaſure.

Stat. 15 *R.* 2. 2. When forcible entry is made into lands or Church-livings, one or more Juſtices of peace taking ſufficient power, and going to the place ſo kept by force may commit the offender to the next Gaole there to remain convict by the Juſtices record, till he hath made fine and ranſome to the King; and herein the Sheriff and all others ſhall be aſſiſtant, in paine of Impriſonment and great fines making.

Stat. 8. *H.* 6. 9. The Statute of 15 R. 2. 2. ſhall be duely

put in execution both againſt forcible entry and forcible detainer, though the entry was peaceable.

When complaint of any ſuch entry or detainer ſhall be made to any ſuch Juſtice or Juſtices of peace, he or they by precept ſhall command the Sheriffe to ſummon a ſufficient Jury, and having by them made inquiry of the force commited, ſhall cauſe the tenements to be reſeiſed, and that as well in the abſence as preſence of the party offending. And here, the alienation of tenements (ſo entred into or detained by force) for maintenance, ſhall be adjudged void: Howbeit, this Act ſhall endamage none, where peaceable poſſeſſion hath been enjoyed three years.

Stat. 31. El. 11. There ſhall be no reſtitution upon an Indictment of forcible entry or detainer, where the defendant hath been three years next before in quiet poſſeſſion, and his eſtate therein ended.

Stat. 21. *Ja.* 15. Vpon force or detainer, as aforeſaid, a Juſtice or Juſtices of peace have power to give reſtitution of poſſeſsion, as well unto tenants for years, by *Elegit*, Statute-Merchant, or ſtaple, copiholders, or Guardians by Knight ſervice, as unto ſuch as claim freehold or Inheritance.

Merton. 6. 20. *H.* 3. A Lay-man raviſhing or marrying a Ward within 14 years of age, ſhall be impriſoned, beſides loſſe of the value of the marriage.

Weſtm. 2. 35. 13. E. 1. A ſtrict Law againſt one that taketh away a Ward.

CHAP. 33.

Rule 2. *Magna Cart.* 34. 9. *H.* 3. A woman ſhall have no appeal, but only of the death of her husband.

Gloceſter 9. 6. E. 1. An appeal of the death of a man muſt

muſt be brought within the year.

Stat. 3. *H.* 7. 1. One acquitted upon an indictment of Murder or man-ſlaughter, or as acceſſory, ſhall not go at large without good bayl, untill the year and day be paſt, within which time an appeall may be brought (if no Clergy be had before) and all advantages therein ſaved, as if the acquittall had not been.

CHAP. 34.

Rule 17. & 18. *Weſt.* 2. 7. A guardian may have writ of admeaſurement of dower, howbeit the heir (at full age) ſhal not be barred by that ſuit, if the guardian did follow it faintly.

In Writs of admeaſurement both of Dower and Paſture after the great diſtreſſe, proclamation ſhall be made two County dayes, whereupon if the party come the plea ſhall proceed, if not, admeaſurement ſhall be made in his default.

Weſtm 2. 8 13. *E.* 1. when the ſame parry (after admeaſurement, another time ſurchargeth the Common, a writ to enquire of that ſecond ſurcharge ſhall go out either *judiciall*, if the former admeaſurement were before the Juſtices, or otherwiſe, *Originall*, out of the Chancery, and the beaſts ſurcharging the Common, (or their value) ſhall be anſwered to the King.

Rule 24 &c. *Marlbr.* 21. 5 2. *H.* 3. The Sheriff may *replevin* beaſts not only without but within a liberty alſo if the bayliff of the liberty will not do it.

Weſtm 2. 2. 13. *E.* 1. The ſheriff or bayliff ſhall take pledges of the plaintiff before they make deliverance of the beaſts, not only *de proſequendo*, but for return in them, if a return be adjudged, he that taketh pledge, otherwiſe ſhall anſwer the price of the beaſts.

Upon

Upon a return awarded to the defendant, the writ *de returno habendo* ſhall have this clauſe (that the Sheriffe ſhall not deliver them without writ, wherein mention ſhall be made of the Jndgment.) and thereupon he may (if he will) have a judicial writ to the Sheriffe to deliver him the beaſts: but if afterwards the Plaintiffe deſire to replevie his Beaſts again, he ſhall have a *Judiciall* writ (*viz.* a writ of *ſecond deliverance*) that the Sheriffe taking ſurety for the ſuit, & alſo for the beaſts to be returned or their price (if return be awarded) ſhall deliver the beaſts before returned, and the diſtrainor ſhall be attached to come before the juſtices at a certain day, and if he that replevied make default, or for ſome other cauſe, return of the diſtreſſe is awarded) being now twice replevied (the diſtreſſe ſhal afterwards remain irrepleviable.

Stat. 1. 2. *P. M.* 12. Every Sheriffe of a Shire (being no City) ſhall at his firſt County-day, or within two moneths after receit of his patent procalim in the ſhir-town four deputies (at leaſt) dwelling not paſt 12 miles one from another, which in his name ſhall make *Replevins*, as the Sheriffe might do himſelfe.

Rule 30. *Stat.* 2. E. 3. 3. Commiſſions of *Oyer* and *Terminer* ſhall be only granted to the Juſtices of the one Bench or other, or to Juſtices *errants*.

CHAP. 36.

Rule 1. *Stat de quo warranto* 18 *E.* 1. Pleas of *quo warranto* ſhall from henceforth be pleaded and determined in the Circuits of the Juſtices. See alſo *Stat de quo warranto novum.*

Rule 3. &c. *Stat.* 36 E. *Stat.* 1. 13. No Eſcheator ſhall take enqueſts of office but indented between the Jurours and him, otherwiſe they are void.

Stat. 33. *H.* 8. 22. No Escheator shall sit *virtute officii* (only) to find an office of lands holden of the King, of 5*l.* value or above, in pain of five pounds.

Stat. 8. *H.* 6. 16. No escheator shall take inquests but of people impannelled by the Sheriff, and those enquests must be returned within a month after the taking, in pain of 20*l.* so also of Commissioners.

Stat. 23. *H.* 6. 17. An Escheator shall take an inquest, *virtute brevis*, within a month after the delivery of the writ unto him his fees are there also, set down.

Stat. 1. *H.* 8. 8. He shall not sit, unlesse he have lands &c. to the clear yearly value of 40 marks, in pain of 20*l.* He shall not delay to take the Verdict, when the Jury offers it, in pain of 100*l.* so also of Commissioners: He shall not be Escheator again within three years after that year ended.

Stat. 36. *E.* 3. *Stat.* 1. 13. A traverse is given to the party, whose lands are seized by office of alienation without licence, or the nonage of the heir in Ward, It shall be sent to the Kings Bench to be tryed.

Stat. 69. *E.* 3. *Stat.* 1. 13. Upon a traverse of *monstrans de droit* the Chancellor may let him, (that tenders it) the lands holden to farm, finding surety to do no waste.

Stat. 8. *H.* 6. 19. They shall not be let to farm till the inquests returned, nor within a month after, within which time the party grieved may have the benefit of the former statute: All Letter, Patents within the moneth shall be void.

Stat. 18. *H.* 6. 6. All Letters patents made of lands or tenements before office found and returned, shall be void.

Stat 1. *H.* 8. 8. Divers good provisions concerning escheators Commissioners, Jurors, and Offices, and the manner of returning offices into the *petty bagg*.

Stat.

Stat. 1. *H.* 8. 10. Lands ſeiſed into the Kings hand by office, ſhall be let to farm to him, that tendred to traverſe the ſame within three moneths after ſuch office found, notwithſtanding the Statute of 8 H. 6. 16.

Stat. 23 E. The eſtates and intereſts of others ſhall be ſaved, though they be not found in the office where an heir of full age is found within age, he ſhall have a writ *de ætate probanda*, and may proceed to ſue out his livery or *ouſter le main*, (as his caſe is) and receives the profits of his lands, notwithſtanding ſuch office found.

Where after the Kings tenants death more hiers then one are found, or if one be untruly found a *Lunatick Idiot*, or dead, the party grieved may have his traverſe, as in other caſes of untrue Inquiſitions: A Traverſe of *Monſtrans de droit* is given without peition, though the King be titled by double matter of Record.

When the Jury finds *de quo vel de quibus Ignorant*, or *per quæ ſervitia ignorant*, the firſt ſhall not make a tenure of the King, nor the laſt tenure in *Capite*; but in ſuch caſes a *Melius inquirendum* ſhall iſſue forth traverſe given to an office where a wrong tenure is found: the rents of mean Lords ſhall be paid (during the nonage of the Ward) by the officer, that receives the revenue of the Wards lands.

Artic. de ſuper cart. 19. 28 *E.* 1. When the Sheriffe or Eſcheator ſeize land into the Kings hand without cauſe, upon ouſting of the Kings hands, the party ſhall have the meſne iſſues.

Stat. de Eſcheatoribus. 29 *E.* 4. 3. If the Eſcheator by writ out of the chancery ſeize land into the kings hand, and after upon Inquiſition no title is found for the king to have the Cuſtodie, an *ouſter le main* ſhall be awarded for the party out of the Chancery: Provided, that if any thing afterwards may be found in the Chancery,

Exchequer, or K. Bench for the King, a *ſcire facies* ſhall go out againſt the party, and if the King have right, he ſhall be anſwered of all the iſſues from the time of the Eſcheators firſt ſeiſing of the land.

Stat. 23. *H.* 6. 17. In a *ſcire facias* upon a traverſe againſt any Patentee, no protection ſhall be allowed.

Rule 11. *Stat.* 28. *E.* 3 4 The rents given to them, that ſue livery, when the rent day commeth, how ſoon ſoever it cometh after the livery.

Stat. 32. *H.* 8. 46. The erection of the Court of Wards And *Stat.* 33 *H.* 8. 22. the annexing thereunto the Liveries: *See the Statutes at large.*

Rule 31. Alſo for the better preſervation of the peace divers wholeſome Lawes began to be framed from the begining of the Reigne of E. 3. for the eſtabliſhing of juſtice of Peace in every County, untill at laſt about the 12. year of R. 2. they were fully ſetled, and had power to keep their Quarter-Seſſions: which Government Sir *Edward Cook* hath obſerved to be the beſt in the Chriſtian world for the preſervation of the Peace: And therefore ſee thoſe Statutes, as you ſhal find them ranked together in divers Books now extant.

Rule 33. Concerning Informations there are divers good Lawes made, which are now ſorted together (under the titles of *actions popular* or *Informations*) in divers Treatiſes, which treat of the office of a juſtice of Peace; and therefore it is conceived needleſſe here to inſert them.

Rule 34 See *Officium Coronatoris*, 4. E. 1. Which ſetteth down the whole orde rhow he is to proceed upon tir quiries: See alſo *Stat de Exonia* 14. E. 1. and the articles thereunto annexed.

Artic ſuper Cart. 3. 28. E 1. The Coroner of the countie ſhal joyn with the Kings Coroner in inquring of the death of a man in a Kings houſe.

Stat.

*Stat.*33.*H.*8.12. The Coroner of the Kings houſe ſhall inquire alone without the Coroner of the County, by a jury of the Yeoman officers of the Court.

CHAP.37.

Rule 10 *Stat.*31.*El.*3. Upon a ſummons in a reall action (fourteen dayes before the return) a Proclamation of the Summons ſhal be made) upon a Sunday after divine Service) at the doore of the pariſh Church where the Land lieth, and ſhall alſo be returned with the names of the Summoners: And till that done, no *Grand Cape* ſhall go out, but a *Alias* and *Pluries*, as the caſe requireth

Rule 15. *Stat.*1.*H.*5. In every original writ of actions perſonal, appeals, & indictments, in which the *Exigent* ſhall be awarded, to the names of the defendants additions ſhall be made of their eſtate and degree or miſterie, and the Towns, Hamlets, Place, and Counties, in which they were or be converſant, otherwiſe all Outlawries thereupon pronounced ſhall be *nul.* And before theſe Outlawries be pronounced the ſaid writs and indictments ſhal be abated by the exception of omitting the ſaid additions.

*Stat.*6.*H.*6.1. All *Exigents* and Outlawries upon indictments in the Kings Beath of Felony and Treaſon, ſhall be void, if before the *Exigent* awarded a *Capias* be not directed to the Sheriff of the County, whereof they be named in the Indictment, having ſix weeks ſpace (or larger, at the diſcretion of the juſtices) before the return.

*Stat.*8.*H.*6.10. In every indictment, or appeal of Treaſon, Felonie, or Treſpaſſe, after the firſt *Capias* returned forthwith (before the *Exigent*) another *Capias* ſhall be awarded to the ſheriffe of the County, where

by the indictment the party is ſuppoſed to abide returnable before the ſame Juſtices, &c. containing the ſpace of three moneths (where the Counties be holden from moneth to moneth) and of four moneths (where they be holden from ſix weeks to ſix weeks) by which *Capias* the Sheriffe ſhall be commanded to take his body, if he be found in his Baliwick; If he be not found, then to make proclamation (for his appearance) in two Counties before the return of the writ. Any *Exigent* or Outlawrie otherwiſe pronounced ſhal be holden for none.

Stat. 10. *H.* 6. 6 The like is to be obſerved, when any indictment or appeal (taken before Juſtice of Peace, or other having power) ſhall be removed before the King in his Bench, or elſwhere by *Certiorari*, or other wiſe.

Stat. 6 *H.* 8. 4 Upon every *Exigent*, a writ to make three Proclamations (returnable the day of the return of the *Exigent*, and the Proclamations to be made, *viz.* two in the full County Court, & the third at the general Seſſions) ſhall goe out to the Sheriffe of every other County (*viz.* then that, where the action is brought) where the defendant is ſaid to be, or lately to have been if the Kings writ run there; otherwiſe to the County next adjoyning to that, where he is ſaid to be; Every outlawry to the contrary ſhall be avoided by plea.

Stat. 37. *E.* 3. 2. A writ *Identitate nominis*, given to thoſe, whoſe lands, goods or chattels be ſeized by any officer ſurmiſing them to be outlawed (where they be not) becauſe they bear ſuch names as they who be outlawed for want of good declaration of the Sirname.

Stat. 9. *H.* 6. 4. A writ of *Identitate nominis* ſhall be (in this caſe) maintainable by executors, as well as by the teſtator himſelfe, if he were living.

Rule 18. *Stat.* 5. *E.* 3. 12. where the Plaineiffe hath recovered

recovered damages, and he against whom damages are recovered is outlawed at the Kings ſuit, no Charter of pardon ſhall be granted, except the plaintiffe be ſatisfied for his damages. When one is outlawed by proceſſe before his appearance, no ſuch Charter ſhall be granted, except he yield himſelfe before the Juſtices, from whom the *Exigent* iſſued, who ſhall cauſe the party to be warned to appear before them at a day: whereupon if the plaintiffe appear, they ſhall plead upon the firſt originall, as if no Outlawry had been. If the plaintiffe appear not, and the warning be duely witneſſed he that is outlawed ſhall be delivered by vertue of his Charter.

Stat. 31. *El.* 3 Upon every *Exigent* in a perſonal action, a writ of proclamation ſhall go out of the ſame Court to the Sheriffe of the County, where the defendant at the time of the *Exigent* ſhall be dwelling, whereupon three Proclamations ſhall be made, viz. one in open County-Court, another at the Quarter-Seſſions, and the third one month (at leaſt) before the *Quinto exact* at the door of the pariſh Church where the defendant ſhall be dwelling at the time of the *Exigent*, upon a Sunday, immediately after Divine Service. All Outlawries otherwiſe executed ſhall be void.

But before reverſing of any ſuch outlawrie in this reſpect, the defendant ſhall put in bail, not onely to anſwer the Plaintiffe in a new action, but to ſatisfie the condemnation, if the Plaintiffe begin his ſuit within two Termes.

Rule 20 *Stat.* 2 5. E 3. *Stat* 5. 14. The ſecond *Capias* in caſe of Felony muſt be returned three weeks after

Rule 24 *weſtm.* 2. 39 13 E. 1. The Plaintife may averre that the Sheriffe might have returned greater iſſues, and thereupon ſhall have a Judicial writ to the Juſtice of Aſſize to inquire of what and how great iſſue be

he might have answered from the day of the purchase of the writ to the day of the return, and the Sheriff shall be charged with the surplussage not returned.

Stat. 1. E. 3. *Stat.* 1. 5. The like averment of too small issues returned, given against Bailiffes of Franchises, as well as against the Sheriffe.

Rule 30. *Westm.* 1. 17. 13 E. 1. the Sheriffe or Bailiffe may take the power of the County or Baliwick, and beat down a Castel or Fortresse, where such beasts are inclosed, if he that took them will not make deliverance.

Rule 33. *Westm.* 2. 11. 13 E. 1. Processe of Outlawrie given in an action of accompt.

Stat. 25. E. 3. *Stat.* 5. 17. Such processe shall be made in a writ of debt and detinue of Chattells, and taking of beasts by *Capias & Exigent*, as is now used in a writ of accompt.

Stat. 7. *H.* 5. 1. In writ against forgers of false charters and muniments like processe shall be made by *Capias & Exigent*, as in writs of trespasse.

Stat. 19 *H.* 7. 9. Like processe given in actions upon the case sued in the Kings Bench and Common place as in actions of trespasse and debt.

Stat. 23. *H.* 8. 14. Like processe shall be had in every action, brought upon the statute of 5 *R.* 2. 7. (concerning forcible entry) as in trespasse, and like processe in every writ of annuity and covenant as in debt.

CHAP. 38

Rule *Stat.* 25. H. 8. 20. for the election nomination, presentation, investing, and consecrating of Arch Bishops and Bishops.

Rule 32. *Stat.* 5. *R.* 2. 2. Prohibits going beyond sea without licence, *but it is repealed by* 1 *Jac.*

But 35. *Stat. Carlile* 15. *E.* 2. The *Dedimus poteſtatem* ſhall be directed to two of the Juſtices, or to one Juſtice and a Knight.

CHAP. 39.

Note 5. *Glocester* 5. 6. *E.* 1. An Action of waſte is maintainable againſt tenant by the courteſie, in dower, for life or years; and the party attainted thereof ſhall loſe the thing waſted, and recompence the party grieved thrice ſo much as ſuch waſte ſhall be taxed at.

Weſtm. 2. 14. 13. *E.* 1. the proceſſes in a writ of waſte ſhall be ſummons, attachment, and diſtreſſe; and if he come not, then a writ unto the ſheriffe (taking with him 12 men) to go to the place waſted, and there enquire of the waſte, and upon that waſte returned judgement ſhall be.

Stat. 11. *H.* 6. 5. Where the tenants grant over his eſtate, but notwithſtanding takes the profits, and commits waſte, an action lies againſt him.

Magn Cart. 4. 9. *H.* 3. The Guardian may not commit waſte, in pain to loſe the Wardſhip: And (*Cap.* 5.) muſt repaire and ſuſtain the houſes of the proſit of the land.

Glocester, 5. 6. *E.* 1. If the Guardian commit waſte, and the Wardſhip loſt anſwers not the damages before the heires age, he ſhall render damages to the heir otherwiſe.

Artic ſuper Cart. 18. 28. *E.* 1. An Eſcheator committing Waſte upon Wards lands, ſhall anſwer damages.

Stat 36. *E.* 1. *Stat.* 1. 13. The heir ſhall have an action of waſte againſt the Eſcheator committing waſte, as well within age, as when he is at full age: *See alſo* 14. *E.* 3. 13.

Weſtm. 2. 22. 13. *E.* 1. A writ of waſte is given for one Jointenant

Jointenant or tenant in common against another, wherein the defendant is to be at his choise, to take his part in certain (and then to have for his part the place wasted) or to agree from thenceforth to take nothing more, then his Companions do.

Gloceſter 13 6 E. 1. Hanging a plea by writ, the tenant may not commit waſte, nor eſtrepment of the land in demand, and if he do, the demandant may have a writ to cauſe the land to be kept, that no waſt nor eſtrepment be done.

CHAP. 40

Rule 2. 36, E. 3. 15. Declarations ſhall be good enough, if they have matter of ſubſtance, though the termes be not apt.

Rule 10 *Weſtm.* 1. 46. If a writ of *novel diſſeiſin* be purchaſed, and the diſſeiſor die before the Aſſize be paſſed, the plaintiffe ſhall have a writ of entry *ſur diſſeiſin* againſt his heir: The like ſhall the heir of the diſſeiſin have, in caſe he die, &c. The nonage of the heir of the diſſeiſor or diſſeiſee ſhall not prejudice in an Aſſize; If the Inqueſt paſs againſt the heir of the diſſeiſee, he ſhall have an Attaint *gratis*.

Gloceſter 2. 6 E. 1. Where an Infant is held from his Inheritance, whereby he is driven to his writ, the Inqueſt ſhall paſſe, notwithſtanding his non-age.

Expoſition of the Statt of Gloceſter 2. 6. E. 1. Touching an Enqueſt to be made for an Infant, that Statute ſhall run without limitation of time.

weſtm. 2. 13 E. 1. The ſuit of a woman or her heir (in *caſu in vita*, or a *ſur Cui in vita*) after the death of her husband ſhall not be delayed by minority of the heir, who ought to warrant the land.

Rule 31. *Weſtm.* 2. 42. Certain [illegible] ſhall not be granted [illegible] caſes, wherein view

Stat

Stat. de visu terræ, & Essoyne de servitio Domini Regis 12. E. View shall be granted in a writ of Ward, in a writ of Customes and services, in a writ of Advowson of a Church (where there be more Churches then one in a Town, and all of one Saint) in a writ of Dower, and in a *nuper obiit.*

Rule 32. *West.* 2. 3. The reversioner may be received in default of tenant for life, dower, curtesie, &c. If judgment be given by reddition, or default, the reversioner shall have a writ of entry after the death of the Termor; so shall the heir also, where the tenant was tenant in tail.

Stat. de defensione Juris 20. E. The reversioner desiring to be received before judgment, shal finde surety (as the Court shall allow) to answer the value of the fruits of the tenant from the day of the receit, till judgment, if it passe for the demandant.

Stat. 13. *R.* 2. 17. The like receit shal be for the reversioner upon the faint pleading of such a tenant, and he shall plead in chief without delay: and the Judges (by discretion) shall give dayes of grace between the demandant and him, that is received, without giving the common day in plea of land, unlesse it be by the demandants assent. Surety for the value shall be found as before in 20. El.) as well where the receit is counterpleaded, as where it is granted.

Glocester 11. Tenant for years shall be received before judgment rendred, to say that the Action was by Covin.

Westm 2. 2 Receipt is given to the Wife in her Husbands life time, if he lose her land by default, and the tenant, that recovered against the husband, must maintain his own right.

Rule 33. *Westm.* 1. 39. What Counter-pleaders are good in Mordancestor, *nuper obiit*, Intrusion, and such like

like actions, and also in writs of Entry in the degree &c. See also *Stat. de vocat. ad warrant.* 20. *E.* 1. 1. 4. *E.* 3. 18. *& westm.* 2. 6.

Rule 48. After Sanctuaries were taken away for sundry offences by divers Statutes, at last by the Statute of 21 *Jac.* 28 They were totally annulled.

Rule 53. *Gloceſter.* 3. The heir shall not be barred of his Mothers Inheritance by the Warranty of the father, being tenant by courteſie, or alination without fine in the Mothers life time, excepe he leave *Aſſets.*

Rule 68. *weſtm.* 1. 12. Notorious Felons, which will not put themselves upon an Inqueſt at the Kings ſuit against them, shal be put to a pain *fort & dure* as those that refuse to be tried by the law of the Land.

Rule 70. The Statutes, that concern Abjuration are *Stat. de Artic. Cler.* 10. and 15. 21. H. 8 2. & 21. 2. 8 12 & 24. but Sanctuaries being taken away, that is now also out of uſe.

CHAP. 41.

Rule 18. *Weſtm.* 2. 38. In an Aſſize there shal be but 14 ſummoned: And men of the age of 70 years continually languiſhing, or ſick at the time of the ſummons shall not be put upon Juries.

Artic. ſuper Cart. 9 *&* 34. *E.* 3 4 Juries shall be made of the next people of the Countie.

Stat. 11. *H.* 6. 1. None dwelling in Stews shall be of a Jury.

Stat 9. *E.* 3. 5. A Deed pleaded in a Franchiſe shall be tryed in the County, where the action is brought.

Stat. 2. 3 *E.* 6 24. Upon a ſtroke or poyſon in one Countie, the party dying in another, an indictment and triall may be in the County where he dieth, and alſo an appeal ſued there, and tryed by 12 men of the same

County

County: Likewise the accessories in one County to a murder or felonie in another County, shal be indicted, arreigned, &c. in the County, where the offence of accessorie is committed.

Stat. 33. *H.* 8. 20. The indictment and triall of *Lumnicks*, confessing treason, &c.

Stat. 33 *H.* 8. 23. The triall of Treason, &c. committed before the Lords of the Counsel, shal be by commission out of the Chancery.

Stat. 27 *H.* 8. 4. and 28. *H.* 8. 13. Treason Felonie, &c. commited within the Admirals jurisdiction, shall be heard and determined by commission directed to the Admirall, and three or four others, &c.

Stat. 32. *H.* 8. 4. Treasons and misprisions of Treason in *Wales*, shall be tried there by such Commissioners, as the King shall appoint.

Stat. 35. *H.* 8. 2. Treason, &c. committed out of *England*, shall be tried in the Kings Bench, or by Commissioners, &c.

Stat. 1. *&* 2. *P. & M.* 10. Trials for Treason shall be according to the course of the Common Law.

Stat 23. E. 3 3. No Indictors shall be put on Inquest upon the deliverance of Indictees of Felonies or Trespass.

westm. 2. 38 None shall be put in Assize or juries triable in their own County, but such as have 20*s. per annum* free-hold, nor in Assize, &c. triable out of their County, unless they have 40*s. per annum, &c.*

Stat. de ponend. in Assis. 21. E. 1. None shll be put in Assize out of their County, unless they have 5*l. per annum*, now within their County, unless they have 40*s. per annum.*

Stat. 2. *H.* 5 3 Upon triall for the death of a man, and betwixt party and party (when the debt or damages amount 40 Marks) he shall have 40*s. per annum.*

Stat

Stat. 33. *H* 8. 13. In Corporations 40*l.* in goods ceth.

Stat. 2. *E.* 6 32. The 40*s.* yearly value muſt be inſer ed in the *Venire facias*.

Stat 27. *El.* 6. Such a Jurour ſhall have 3*l.* yea value; Howbeit theſe two laſt Statutes extend not Corporations.

Stat. 27. *El.* 7. The Jurour ſhall be returned by ſom addition. whereby he may be known.

Stat. 8. *H.* 4 3. every Jurour returned within the Coun ty of *Middleſex*. ſhall be called the fourth day of th return.

Stat. 5. *E.* 3. 10. An *Ambidexter* ſhall never be of Jury more.

Stat. 34. *E.* 3. 8. The party or any ſtranger may ſu him for it.

Stat. 38 *E.* 3 12. And both the Jurours and the Em bracetours. being thereof attaint. ſhall pay ten times ſ much, as they have taken.

weſtm. 2. 30. when and how Aſſizes &c. ſhall be ta ken in the Country: See alſo *Statutum de finibus leva tis* 4. 21 *E.* 1. That Enqueſts thereof being taken ſha be returned into the Bench and there judgment ſha be given thereupon, &c.

Stat. Eborac. 3. 12. *E.* 2. Enqueſts in Pleas of Land that require too great examination, ſhal be taken i Country before a Juſtice of the place, where the pl depends; and a Knight there, or other, &c.

Stat. 42. *E.* 3. 11. *Niſi prius* ſhall not be granted beſo the name of the Jurours returned.

Stat. 14. *E.* 3. 16. The directing of *Niſi Prius* to b tied in the Countrey.

Stat. 18 *El.* 12. Trial of *Niſi Prius* for *Middleſex*, i the term time, or 4 dayes after.

Rule 19. *Stat.* 15. *H* 8 6. Made perpetual 2 *E.* 6. Six ſufficient Hundreders ſhal be returned upon ever Jury.

St

Stat. 27. *El.* 6. If two ſufficient Hundreders appear in any perſonal Action it ſufficeth.

Rule 20. *Stat.* 7. *R.* 2. 10. An Aſſize of *novel diſſeiſin*, of rent iſſuing of tenements in divers Counties ſhall be in the Confines of the ſaid Counties.

Rule 22. *Stat.* 28. *E.* 3. 3. confirmed by 8. H. 6. 28. In every ſuit between an alien and a Denizen (though the King be a party) the one halfe of a Jury ſhall be Aliens, if there be ſo many in that *Viſne*? and if there be not ſo many, then ſo many as be there, not parties.

Rule 23. *Mag Cart.* 29 A Peer of the Realm upon an Indictment of Felony or Treaſon ſhall be tried by his Peers.

Stat. 20. H. 6 9. Ducheſſes, Baroneſſes, Counteſſes, &c. ſole or married, ſhall be tried (in ſuch caſes) as Peers of the Realm.

Rule 37. *Stat.* 22 *H.* 8. 14. No perſon arraigned for petty Treaſon, Murder, or Felony, ſhall be admitted to any peremptory Challenge above the number of twenty.

Rule 38. *Stat.* 35. H. 8. 6. made perpetual 2. E. 6. 32. A *Tales* may be made up before the Juſtices of Aſſize, or *Niſi prius*, of able perſons of the ſame County then preſent, at the prayer of the plaintiffe or demandant.

Stat. 4. 5. *P. M.* 7. So likewiſe for the King upon requeſt by any authorized there unto, or aſſigned by the Court, or by the Informer, that followes as well for the King as for himſelfe.

Stat. 14. *El.* 9. Such a *Tales de circumſtantibus* ſhall be alſo granted at the prayer of the defendant or Advowant

Rule 53. *Stat.* 21. H. 8. 3. The demand of a thing intire may be abridged before Verdict, though thereby the writ become falſe.

Rule

Rule 60. *Magn. Cart.* 28. Wager of Law ſhall not be addmitted without credible witneſſes.

Stat 5. H. 4 8. In actions of debt upon arrerages of accompt faining (to the Intent to put the defendants from their law) that the ſame was found before their Apprentices or Servants, Auditors aſſigned therein; it ſhall be in the Judges diſcretion upon examination of the Attorneis (or whom elſe they pleaſe) to receive the defendants to their law, or elſe to try the ſame by Enqueſt.

CHAP. 42.

Rule 10, &c. *Weſtm.* 2. 12. In an appeal of the death of a man no Eſſoin ſhall lie for the Appellor.

weſtm. 1. 41. In Aſſize and *Juries utrum*, after the tenant hath appeared, he ſhall be no more eſſoyned ſo it is alſo for demandants in an Aſſize, by *weſtm.* 2. 28.

weſtm. 1. 42. Perceners or Jointenants in a *Præcipe* againſt them ſhall have but one Eſſoin: ſo likewiſe for a man and his wife by the *Stat.* of *Glocester*, 10.

Stat. 9. E. 3. *Stat.* 1. 3. In a writ of debt againſt executors, they ſhall have but one Eſſoin before, and another after appearance.

weſtm. 2. 27. No Eſſoin is allowed after day given by *prece partium.*

Marlbr. 13. After a man hath put himſelfe upon an Inqueſt, he ſhall have but one Eſſoin.

weſm. 2. 17. After one hath put himſelfe upon an Inqueſt, an Eſſoin ſhall be allowed him at the next day, but never after.

Marlbr. 19. None ſhall need to ſwear to warrant his Eſſoin.

weſtm

weſtm. 1. 43. The Demandant may aver againſt an Eſſoyn of being beyond Sea.

weſtm. 2. 17. He may aver that the tenant is not ſick, nor in ſuch plight, but that he may come before the Juſtices, &c.

Stat. 5. *E.* 3. 7. Eſſoyn of the Kings ſervice or protection, ſhall not be allowed in Writs of Attaint.

Stat. of Eſſoyns 12. *E.* 3. 2. See many particular Caſes where Eſſoyns lie not.

Rule 16. *Stat. de Anno Biſſextili* 21 *H.* 3. The day increaſing in the Leap-year, and that going before, ſhall be accounted for one day.

Dies communes in Banco, 51. *H.* 3. Dayes given in Writs ſhall have 9 returns.

Dies communes in Banco, and 32. *H.* 8. 21. Common dayes ſhall be given in reall Actions 9 returns; In Writs of Dower 5 returns.

Marlbr. 12. In Dower, *unde nihil habet*, 4 or 6 dayes ſhall be given in the year: In Aſſiſes of Darrein preſentment or *Quare impedit*, from 15 dayes to 15 dayes, or from 3 weeks to 3 weeks, as the place ſhall be neer or far.

Stat. 5. *E.* 3. 6. & 7. In an Attaint 5 dayes at leaſt.

Rule 17. *Stat.* 1. *E.* 6. 7. By death of the King, no Action, Suit, Bill, or plaint, ſhall be diſcontinued, or put without day, but ſhall proceed as if the King had lived.

Rule 39. *Ttat.* 14. *E.* 3. 14. The manner of ſearch in ſuit by Petition.

Rule 43. 27. *El.* 7. A Juror ſhall not be returned without a true addition, of the place where he dwels, and ſome other addition, whereby he may be known.

Ttat. 35. *H.* 8. 6. What iſſues ſhall be returned upon Jurors.

Ttat. 2, 3. *E.* 6. 32. If the principall Jury appear not

fully at the *nisi prius*, those that make default, shall forfeit their issues, though the Jury be made up *de circumstantibus*.

CHAP. 43.

Rule 20. *Stat. de consultatione*, 24. *E.* 1. A Consultation shall be awarded by the Chancellor or chief Justice, upon sight of the Libel, at the instance of the Plaintif.

Stat. 50. *E.* 3. 4. Upon a consultation the Ecclesiasticall Judge may proceed, notwithstanding any other prohibition, so the matter of the Libel be not enlarged or changed.

Rule 23. *westm.* 1. 15. Persons outlawed, and such as have abjured the Realm, Provers, and such as be taken with the manner, Prison-breakers, Theeves openly defamed and known, Appellees by provors (during the life of such provors) House-burners, Counterfeiters of the Kings Seal and Coin, Excommunicate persons, manifest offenders and Traitors are not bailable, &c. other Statutes that concern Bail are 3. *H.* 7. 3. 1,2. *P. M.* 13. and 2,3. *P. M.* 10.

CHAP. 45.

Rule 3. *West.* 2. 5. When the Parson of any Church is disturbed to demand his Tithes in the next Parish, by an *Indicavit*, the Patron shall have a Writ to demand the Advowson. See *Stat per clero*, 18. *E.* 3. 7. & 47.

Rule 6. *Stat.* 25. *E.* 3. 18. The Lord may seise the body of his Villain, notwithstanding that a Writ *de libertate probanda*, be hanging.

Rule 10. *Stat.* 5. *E.* 3. 7. No protection shall be allowed in Writs of Attaint.

Rule

Rule 12. See *Stat.* 13. *R.* 2. 6. The Statute of Protection, & 1. *R.* 2. 8.

Rule 14. A Creditor ſhall have an Action and Judgement againſt the Kings Debtor, notwithſtanding ſuch a Protection, but not execution; unleſſe he take upon him to pay the King, and then he ſhall have judgement and execution of both debts, as well of that due to the King, as to himſelfe.

Rule 16. *veſt.* 2, 17. He may aver that he is not ſick, &c. *vide ſupra, Cap.* 42. *Ru.* 10.

CHAP. 46.

Rule 7. *Stat.* 14. *El.* 8 Every fraudulent recovery againſt Tenant for life, whereupon the Tenant for life is vouched, ſhall be void againſt the Reverſioner or him in remainder, unleſſe it be by his own conſent appearing of record.

Stat. 21. *H.* 8. 15. Termors for years, or ſuch as are in by execution of Statute ſtaple, Statute Marchant, or *Elegit* may falſifie recoveries for their own term only, as Tenants of the Freehold might have done at the Common Law.

Rule 13. 25. *H.* 8. 3. revived by 5, 6. *E.* 6. 10. One arreigned upon an Indictment of petty Treaſon, wilfull burning of houſes, murther, robbery, or other felony, according to the meaning of the ſame Statute, if he ſtand mute of malice or froward minde, or challenge peremtorily above 20, or will not directly anſwer, ſhall loſe his Clergie, in ſuch manner as he ſhould, if upon the arreignment he had been found guilty.

Stat pro Clero. 25. *E.* 3. 4. None convict of petty Treaſon ſhall have it.

Stat. 8. *El.* 6. Not in Rape, Raviſhment, or Burglary, nor in the carnal abuſing of a woman within ten years of age.

Stat. 25. *H.* 8. 6. & 5. *El.* 17. Nor in Buggery.

Stat. 5. *E.* 6. 9. Not for robbing a dwelling houſe, booth, or tent, &c.

Stat. 4, 5. *P. M.* 4. Nor for acceſſaries before the fact in petty treaſon, murther, or robbery in an houſe, or in or neer the high way; or for the wilfull burning of a dwelling houſe, or a barn with Grain.

Stat. 25. *H.* 8. 3. & 5. *E.* 6. 10. He that doth a Robbery or Burglary in one County, and is taken with the goods ſo robbed or ſtolne in another County, ſhall loſe his Clergy there, as he ſhould do, where the Robbery or Burglary was committed.

Stat. 4. *H.* 7. 13. & 1. *E.* 6. 11. It is grantable but once to one perſon, unleſſe he be within orders.

Stat. 4 *H.* 7. 13. He that asketh his Clergy the ſecond time, ſhall at a certain day bring his Letters of order, or a Certificate.

Stat. 4. *H.* 7. 13. He that hath his Clergy ſhall be marked in the hand, *viz.* with an *M.* if he were convict of Murder: with a *T.* if he were convict of other felonie.

Stat. 1. *E.* 6. 12. A Lord of the Parliament in all Caſes, where Clergie lieth at the Common Law, or is reſtrained by Statute, ſhall upon his prayer be adjudged as a Clerk convict, though he cannot read.

Stat. 1. *El.* 4. & 18. *El.* 7. After purgation he ſhall be put to anſwer to any offence (committed before his admiſſion to the Clergy) whereupon Clergy is not allowable, and whereof before he was not indicted and acquitted, convicted, or attainted, and pardoned, and ſhall be demeaned in all things, as if he had never been admitted to his Clergie.

Stat. 18. *El.* 7. He that is allowed Clergie, ſhall not be delivered to the Ordinary, but after burning in the hand ſhall be forthwith delivered by the Juſtices out of priſon; yet for further correction they may detain him in

in priſon, ſo as it be not above a year.

Rule 24. *Weſtm.* 2. 12. One being acquitted upon an Appeal or Indictment of felony, may have the abettors inquired, and have a judicial writ for damages againſt them, if the appellant be not ſufficient.

Stat. 8. *H.* 6. 10. An Action upon the caſe given for him, that is duely acquit by Verdict againſt every procurer of any Judgement, or appeal of treaſon, felony, or treſpaſſe: and like proceſſe ſhall be therein, as in a writ of treſpaſſe, *vi & armis.*

Rule 37. *Weſtm.* 2. 18. 13. *E.* 1. Where debt is recovered or knowledged in the Kings Court, or damages awarded, it ſhall be from henceforth in the Election of the Plaintiffe to have a Writ of *Fieri facias* unto the Sheriffe, to levie the debt upon the lands and chattels of the debtor, or that the Sheriffe ſhall deliver to him all the chattels of the debtor, (except oxen and beaſts of his Plough) and the one half of his land until the debt be levied upon a reaſonable price or extent. And if he be put out of the land, he ſhall recover it again by a writ of *Novel diſſeiſin*, and after that by a writ of *rediſſeiſin*, if need be.

Action Burnel. 11. *E.* 1. A debt acknowledged to a Merchant before the Major of *London*, *York*, or *Briſtol*, or before a Major or Clerk (appointed thereunto by the King) ſhall be enrolled: and if it be not paid at the day, the debtors moveables ſhall be prized and ſold in ſatisfaction by the Major, if he have any within his juriſdiction, elſe by writ out of the Chancery upon a Certificate of the Recognizance thither. The Appriſors are to take them at the price, if they apprize them too high If the debtor have not moveables ſufficient, he ſhall be impriſoned, untill, &c. The like proceeds againſt pledges, in default of ſufficient moveables of the principall.

Stat. de Mercatoribus 13. *E.* 1. A debt acknowledged to a Merchant before the Major of *London*, or chief Warden of the Town, which the King ſhall appoint, or other ſufficient men (when they cannot attend) and before a Clerk, which the King ſhall aſſigne, ſhall be enrolled, and if it be not paid at the day, the debtor if he be a Lay-man ſhall be impriſoned by the Major, untill, &c. if he be within their power, elſe by writ out of the Chancery, upon Certificate of the Recognizance thither: And if he agree not with the Creditor within a quarter of a year after, then all the Lands which were the debtors (the day of the Recognizance made) and alſo his goods ſhall be delivered to the Creditor upon a reaſonable extent. And of theſe lands ſo delivered, the Conuſee being ouſted ſhall have an Aſſize or *redisſeiſin*.

The writ out of the Chancery ſhall be returnable before the Juſtices of either Bench, and upon a *non eſt inventus* returned, or that he is a Clerk, writs to all the Sheriffes, where he hath lands or goods, ſhall go forth to deliver the ſame upon reaſonable extent, and to what Sheriffe he will to take his body: The like proceſſe ſhall be againſt the pledges, if the money be not paid at the day: If the debtor or pledges die, the Creditor ſhall have execution upon the lands of the heir at his full age

The Statute of the Staple 27. *E.* 3. *Stat.* 2. 8. The Major of the *Staple* ſhall take recognizance of debt before himſelf, and the Conſtables of the Staple, whereupon (default of payment being made) the debtors body ſhall be impriſoned, and his goods ſold in ſatisfaction of the debt (if they be within the Staple) otherwiſe upon a Certificate in the Chancery, a writ ſhall go out from thence to impriſon his body, and ſeize his lands and goods, which ſhall be returned into the Chancery, and execution thereupon in all reſpects, as in the Statute-Merchant, ſave that the debtor ſhall have no advantage

of

of the quarter of a Yeer.

Stat. 5. *H.* 4. 12. a Statute being once ſhewed in the Common Place, and the proceſſe afterwards diſcontinued, yet Execution may afterwards be awarded without ſhewing it again.

Stat. 11. *H.* 6. 10. He that is in Priſon upon a Recogniſance, ſhall not be delivered out of priſon upon a *ſcire facias* againſt the party, and ſurety found to the King alone; but ſhall finde ſureties ſeverally as well to the King, as to the other Partie.

Stat. 23. *H.* 8. 6. Either of the Chief Juſtices, or (in their abſence out of the terme) the Maior of the ſtaple of Weſtminſter with the Recorder of *London* may take Recogniſances, and they ſhall be executed in all reſpects as a Statute ſtaple.

Stat. 27. *El.* 4. Every Statute ſtaple or Merchant, not brought to the Clerke of Recogniſances within 4 months next after the acknowledgment thereof, ſhall be void againſt all perſons, their heirs, ſucceſſors, executors, adminiſtrators, and aſſignes onely, which for good conſideration ſhall after the acknowledging thereof purchaſe the Land or any part thereof lyable thereunto, or any rent, leaſe or profit out of the ſame.

Stat. 32. *H.* 8. 5. Lands lawfully delivered in execution upon a Judgement, Statute Merchant, ſtaple, or Recogniſance, being evicted without any fraud or default in the tenant before he have levied the whole debt and dammages, the Recoverer and Recogniſee ſhall have a *ſcire facias* out of the ſame Court, where execution was awarded, returnable there full forty dayes after the date: and thereupon a new writ of execution (of the nature of the former) ſhall iſſue forth to levie the reſt of his debt and damages, if the defendant make default, or ſhew no good matter in barre.

Magn. Cart. 8. 9. *H.* 3. The King ſhall not take the

lands or rents of the debtor, if he have ſufficient chattels.

Mag. Cart. 18. The goods of the debtor may be attached after his death by the view of lawful men, that nothing be medled with till the Kings debt paid.

Stat. 33. *H.* 8. 39. All obligations to the King ſhall be of the force of a Statute ſtaple.

Vide 48. *Weſtm.* 2. 45. 13. *E.* 1. For all things recorded before the Kings Juſtices, or contained in fines (as contracts, Covenants, Obligations, Services, or Cuſtomes, acknowledged, or any other things enrolled) a writ of execution ſhall be within the yeer; But after the yeer a *ſcire facias*: The like alſo is of a Meſne, who by Judgment or recogniſance is bound to acquit.

CHAP. 47.

Vide. 9. *Stat.* 9. *R.* 2. 3. If tenant for life, or in tail after poſſibility of iſſue extinct be impleaded, and Judgement paſſe againſt him, the reverſioner or remainder man at the time of the Judgment, ſhall have writ of error upon an error in the record of the ſame Judgment, as well in the life of ſuch a tenant, as after his death: And if at the time of reverſing the Judgement the tenant for life, &c. be alive, he ſhall be reſtored, &c. his poſſeſſion with the mean profits, and the reverſioner, &c. to the arrerages of the rent, if any be due: But if the tenant for life, &c. be dead at the time of reverſing the Judgement, then the reverſioner, &c. ſhall be reſtored to the poſſeſſion with the iſſues after the death of the tenant for life, &c. and alſo to the arrerages due in his life: *ſee the Marqu. of Winch. caſe. Co.* 3. 4.

Stat. 31. *E.* 3. 12. Error in the Exchequer ſhall be reverſed before the Chancelor and Treaſurer, taking to them ſuch Juſtices, and other ſage perſons, as they ſhall think

think fit: And afterwards the roll ſhall be ſent back into the Exchequer, to make execution.

Stat. 31. *El.* 1. If either the Lord Chancellor or Lord Treaſurer, or Both the Chief Juſtices come at the day of adjournment, in the Writ of error in the Exchequer, it ſhall be no diſcontinuance.

Stat. 32. *H.* 8. 30. *Made perpetuall*, 2. *E.* 6. 32. After a Verdict tryed by 12 men or more in any ſuit, in a Court of record, no Judgement ſhall be ſtayed or reverſed for any miſpleading, lack of colour, inſufficient pleading, miſcontinuance, diſcontinuance, miſconveying of Proceſſe, misjoyning of Iſſue, lack of Warrant of Attourney for the party againſt whom the Iſſue is tryed, or any other default or negligence of the parties, their Counſellors, or Attourneys.

Stat. 18. *El.* 14. After a verdict of 12 men or more in any ſuit in Court of Record, Judgement ſhall not be ſtayed or reverſed for default of form, or lack of form, falſe Latine, variance from the Regiſter, &c. in any Writ originall or judiciall: Declaration, Bill or Plaint, or for want of any Writ originall or judiciall, or by reaſon of any imperfect or inſufficient return, or for want of any warrant of Attourney, or by reaſon of any manner of default in proceſſe, upon or after *Aid prayer* or Voucher.

Stat. 27. *El.* 5. After Demurrer joyned or entred in any Suit in Court of Record, the Judges ſhall proceed & give judgement according to right, & the matter in Law appearing to them, without regarding any imperfection, defect, or want of form in any Writ, Return, Plaint, Declaration, or other pleading whatſoever, except thoſe only, which the party ſpecially and particularly ſhall ſet down and expreſſe together with his Demurrer: And no judgement to be given ſhall be reverſed by Writ of error, or by any ſuch imperfection, defect, or want of form, as aforeſaid, except as is before excepted.

The

The two laſt Statutes extend not to ſuits of Felonie or Murther, nor to the indictment or preſentmẽt of them; or of Treaſon, nor to the proceſſe of any of them, nor to any ſuit upon any popular or penall Statute.

Rule. 10. *Stat.* 27. *El.* 8. An Error in the Kings Bench in an action of debt, detinue, covenant, account, action upon the Caſe, *Ejectione firmæ*, or treſpaſs firſt commenced there (where the King is no party) may at the parties choice be reverſed in the Exchequer chamber before the Juſtices of the Common place, and ſuch Barons of the Exchequer as are of the *Coife*, or ſix of them at leaſt, other then for error concerning the juriſdiction of the Kings Bench, or want of form in a Writ, Return, Plaint, Bill, Declaration, Pleading, Proceſſe, Verdict, or proceeding whatſoever: And upon the judgement affirmed or reverſed, the Record ſhall be ſent back into the Kings Bench, to proceed and award Execution thereupon.

The party grieved with ſuch reverſall or affirmation, may have a Writ of Error in the Parliament, in ſuch form as is now uſed upon erronious judgements in the Kings Bench.

Stat. 31. E. 1. Any three of the Juſtices and Barons (if the full number come not) may receive Writs of Error, award Proceſſe, preſix dayes for the continuance of Writs of Error, &c.

Rule 12. *Weſt.* 1. 37. 3. E. 1. An Attaint is given in pleas of Land, or of Freehold, and of things that touch Freehold.

Stat. 1. E. 3. *Stat.* 1. 6. It is given in Writs of Treſpaſs, as well upon the principall, as upon the damages.

Stat. 5. E. 3. 6. & 7. In attaints no Eſſoin or Protection ſhall be allowed: And a *Niſi prius* is given in ſuch Writs, as well as in others.

Stat. 28. E. 3. 8. An Attaint is given in treſpaſs as well upon a Bill, as upon a Writ, without having regard to the quantity of the Damages.

Stat.

Stat. 34. E. 3. 7. An Attaint is granted in all pleas, as well reall as perſonall.

Stat. 9. R. 2. 3. It is given to the Reverſioner during the life of his Tenant for life upon a recovery againſt him, with reſtitution to the Tenant that left his poſſeſſion, together with the mean profits, and of the arrearages to the reverſioner, but if the tenant, that ſo loſt, be dead, or were of covin with the recoveree; reſtitution ſhall be made to the reverſioner of the poſſeſſion it ſelfe with the mean profits and arrerages, after ſuch death orrecovery by covin; ſaving to the tenant his action by *ſcirefacias*, if he will traverſe the Covin.

Stat. de Attinctis. 13. E. 2. If the petty Jurie appeare not at the firſt diſtreſſe againſt them, or a *nihil* be returned, the Grand Jury ſhall be taken by their default.

Stat. 23. H. 8. 3. *Made perpetual by* 13 *El.* 25. In any ſuit before Iuſtices of Record (not concerning life) an Attaint is given againſt the Petty Jury, and every of them, and the party himſelf: the Proceſſe againſt the Petty Jury and Grand Jury, ſhall be ſummons and Reſummons, and diſtreſſe infinite.

Open proclamation ſhall be made in the Court, where the diſtreſſe is awarded, more then 15 dayes before the return of the diſtreſſe; And the Grand Jurie ſhall be taken in default of the Defendant, or petty Jurors, or any of them.

If any of the petty Jury appear, then the plaintiffe ſhall aſſigne the falſe Oath of the firſt verdict untruly given, whereunto the petty Jury ſhall have no anſwer, if they be the ſame perſons, and the Writ, Proceſſe, Return, and Aſſignment be good and lawfull, (except the plaintiffe in the ſame attaint hath before been non-ſuit, or diſcontinued his ſuit, or hath had a former Judgement therein) but only that they made a true Oath, which iſſue ſhall be tryed by 24 of the Grand Jurie; and the party

ſhall

ſhall plead that they gave a true Verdict. or any other matter which ſhall be a ſufficient bar of the attaint: Notwithſtanding which plea, the grand Jury ſhall without delay enquire of the truth of the Verdict: ſuch a day ſhall be given in the Proceſſe, as in a Writ of Dower, and no eſſoyn or protection allowable.

By the death of the party, or one of the petty Jury, the attaint ſhall not abate, nor be deferred againſt the reſt, as long as two of the petty Jury ſhall live.

Every attaint ſhall be in the Kings Bench or Common place, and the *Niſi prius* granted upon the diſtreſſe by the diſcretion of the Juſtices. Every of the petty Jury may appear and anſwer by attourney. The *Nonſuit* or releaſe of one, when there be diverſe plaintiffes or defendants in an Attaint, ſhall not prejudice.

Every one of the grand Jury muſt have 20 Marks a-piece Land of Freehold out of Ancient *demeſne*, but if the value of the thing in ſuit be under the value of 40 *li.* then 5 Marks a year, or 100 Marks worth of goods ſufficeth: For default of ſuch ſufficient Jurors within the ſame County, a *Tales* ſhall be awarded unto the next.

Stat. 11. E. 6. 4. The Plaintiffe ſhall recover Coſts and Damages againſt the Juror, or defendant, that pleads a feigned plea in delay.

FINIS.